

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No.183/GTY/2024
Assessment Year 2015-16

Panwang Wangham,

Ranglua, Kanubari,
Distt- Longding, Assam - 792130
[PAN: AAQPW6980M]

.....**Appellant**

vs.

Income Tax Officer,

Digboi, Assam – 786171

..... **Respondent**

Appearances by:

Assessee represented by : Mayur Agarwal, FCA
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 03.04.2025

Date of pronouncing the order : 04.04.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. The present appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereinafter “the Act”), passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter the Ld. CIT(A)] vide order dated 15.12.2023 for AY 2015-16.

1.1 In this case, the AO passed an order under Section 144 of the Act. Through this order, the Ld. AO added an amount of Rs. 64,60,365/- by way of adding the credit entries in the bank account as unexplained money under Section 69A of the Act. Since there was no compliance before the Ld. AO, the order was passed in an exparte manner.

1.2 The assessee carried this matter in appeal before the Ld. CIT(A) where also he could not succeed even though a remand report was called

for from the Ld. AO in response to a number of fresh evidences filed before the Ld. First Appellant Authority. The Ld. CIT(A) is seen to have passed a rather brief order with the following critical findings:

“5.2. During the appellate proceedings, the appellant contended that he was engaged in the business of tea garden and the said deposits belonged to the sale proceeds of business activities. In support of his contention, the appellant furnished the written submissions. Since these were the additional documentary evidences, the same were forwarded to the AO with direction to furnish the remand report. Accordingly, the AO verified the documentary evidences and submitted the remand report. The AO noted that the nature & source of deposits made by the appellant in his bank accounts remained unexplained and hence recommended to uphold the additions made during the assessment proceedings. Further it is also noted that the appellant in no way could prove his business activity of tea garden with supporting documentary evidences. Thus, the appellant is only making a story of doing business in order to cover up the unexplained money deposited in its bank account during the year under consideration.

In view of the facts & remand report submitted by the AO, the nature & source of deposits made by the appellant remained unexplained. Thus, the appellant had failed to discharge his onus under section 69A of the Act. Hence, the addition made by the AO of Rs.64,60,365/- as unexplained money u/s 69A of the Act is confirmed. Accordingly, Ground No. 1 to 5 are dismissed.”

2. Aggrieved with this action of Ld. CIT(A), the assessee has filed the present appeal with the following grounds:

“1. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) (for short CIT(A)) was not justified in confirming the addition of income of Rs. 64,60,365/- which is highly excessive, incorrect and without any basis whatsoever.

2 On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the addition u/s 69A of the Income Tax Act.

3. On the facts and in the circumstances of the case and in law, the learned CIT(A) has failed to consider the submissions made by the appellant along with supporting evidence.

4. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in not considering our submission that the notice under section 147/148 was invalid.

5. On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in relying on the remand report of the Income Tax Officer.

6. On the facts and in the circumstances of the case and in law, the learned CIT(A) was not justified in not allowing the benefit of exemption under section 10(26) of the Income Tax Act.

7. On the facts and in the circumstances of the case and in law, the learned CIT(A) was not justified in not allowing the benefit of exemption on agricultural income as per the Income Tax Act.

8. That your appellant craves the leave of your honour to add, amend or / and withdraw any grounds of appeal at the time of hearing.”

2.1 Before us, the Ld. AR vehemently argued and submitted that the assessee was covered under the provision of section 10(26) of the Act for which he had submitted the necessary documentation before the Ld. CIT(A). It was submitted that the entire quantum of income/receipts in the hands of the assessee belonged to his Tea Garden for which a certificate indicating 442 Bighas of land under tea cultivation was duly issued by the “Gaon Bura”. It was submitted that the receipts issued by the buyers of tea grown in the said plantation revealed a consistently higher quantum of money than whatever has been treated as undisclosed income by the Ld. AO. The Ld. AR also challenged the validity of proceedings under Section 147 of the Act. The Ld. AR concluded his argument by stating that all manner of documentation had been provided before the Ld. CIT(A) to show that the assessee was covered under the provision of section 10(26) of the Act and that he had a justifiable source of agricultural income. In this way, the Ld. AR assailed the action of both the Ld. AO and Ld. CIT(A).

2.2. The Ld. DR, on the other hand, supported the orders of authorities below and stated that there is a clear finding in the impugned order about the unverifiability of the deposits in bank.

3. We have carefully considered the rival submissions and we have gone through the documents filed before us by the assessee. We have also carefully perused the orders of authorities below. In this case, the admitted fact is that before the Ld. AO, the assessee could not present the facts extensively on the ground that he did not receive the notices for hearing. Be that as it may, the assessee presented fresh documentary evidence before the Ld. CIT(A), which in turn was examined and

commented upon by the Ld. AO. We find that the certificate issued by “Gaon Bura” is for the year 2023, whereas, the assessment year is 2015-16. However, there is considerable strength in the Ld. AR's averments that prior to the impugned proceedings before First Appellate Authority, the assessee had no need to prove the source of his income and therefore, the income in question arose in 2023 only. We also understand that a tea garden cannot come up overnight or even in the span of a few months. In case, the assessee has been involved in cultivation of tea then it would certainly be an exercise dating back several years. In this context, the fact finding done at the level of Ld. CIT(A) reveals huge gaps which prevents us from taking a clear-cut view in the matter. Accordingly, we deem it fit to set aside the impugned order and remand this matter back to the file of Ld. AO for examining this matter from the following angles:

(a) Whether the assessee is a designated person as per the provisions of section 10(26) of the Act and consequently would he be entitled for tax exemption as per the said provision.

(b) The Ld. AO must examine whether the receipts produced by the said buyers of the assessee's produce exceed the deposits in the bank account and if so, would they then be justified as explained on that account.

(c) The Ld. AO, must examine the claim of the assessee regarding the agricultural income, and its taxability, or otherwise, in the light of extant provisions of the Act.

4. With these remarks, the matter is remand to the file of Ld. AO for fresh adjudication after giving adequate opportunity of being heard to the assessee.

5. In the result, appeal is partly allowed for statistical purposes.

Order pronounced on 04.04.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 04.04.2025
AK, PS

Copy of the order forwarded to:

1. Panwang Wangham
2. Income Tax Officer, Digboi
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches