

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 519/PAT/2024
Assessment Year: 2018-2019**

***Vijaya Singh,.....Appellant
M-55/22A, S.K. Nagar,
Patna-800001, Bihar
[PAN:ASUPS6086N]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-6(1), Patna,
Lok Nayak Jay Prakash Bhawan,
Dak Bunglow Road, Patna-800001, Bihar***

Appearances by:

*Shri K.N. Prasad, Advocate and Shri Vishal Kumar,
Advocate, appeared on behalf of the assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

Date of concluding the hearing: May 7, 2025

Date of pronouncing the order: July 28, 2025

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 19th June, 2024 passed for Assessment Year 2018-19.

2. Brief facts of the case are that the assessee filed her return of income electronically on 25.07.2018 declaring total income at Rs.1,58,760/-. The return was processed under section 143(1) of the Income Tax Act, 1961. The assessee declared agricultural income at Rs.39,45,200/-. The case was selected for scrutiny through CASS and notice under section 143(2) of the Act was issued on 22.09.2019 and served upon the assessee within statutory period. The case was transferred to the Regional Assessment Unit for completing the assessment under the Faceless Assessment Scheme, 2019 on 13.10.2020. Notices under section 142(1) of the Act was issued from time to time, but the assessee failed to furnish the details in response to notices issued to her. Thereafter the show-cause notice for penalty under section 272A(1)(d) of the Act was issued to the assessee. Thereafter the assessee submitted a part of reply on 27.03.2021 online. Thereafter notice under section 142(1) of the Act dated 09.04.2021 was issued to the assessee to furnish the details as per the questionnaire annexed to the notice. But the assessee failed to furnish the details in response to the notices issued. The assessee declared the income under the head 'house property' and the assessee has also declared the agricultural income of Rs.39,45,200/- during the FY under consideration. As the assessee failed to establish the agriculture income as claimed by her in the return of income, therefore, it was concluded that the agricultural income shown by the assessee is nothing but unexplained money. The amount of Rs.39,45,200/- claimed as agriculture income was treated as unexplained money by the ld. Assessing Officer and added to the total income of the assessee.

Thus, the ld. Assessing Officer determined the total taxable income of the assessee at Rs.41,03,960/-. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

3. The ld. CIT(Appeals) dismissed the ground relating to the income from agriculture as shown by the assessee, since the assess failed to furnish the sale invoices/bills or any other documents in order to prove the genuineness of the sale proceeds claimed. Therefore, the ld. CIT(Appeals) treated the amount of Rs.39,45,200/- as unexplained money under section 69A of the Income Tax Act. The other grounds raised by the assessee i.e. with regard to the invocation of the provisions under section 115BBE raised by the assessee in her grounds of appeal, since the amount of Rs.39,45,200/- claimed as agricultural income by the assessee, which was treated by the ld. Assessing Officer under section 69A as unexplained money and taxed as per section 115BBE, therefore, the ground on this issue was dismissed by the ld. CIT(Appeals). The issue relating to the levy of charging interest is concerned, the ld. CIT(Appeals) was of the opinion that levy of interest is mandatory as per the guidelines of the Hon'ble Supreme Court in the case of CIT -vs- Anjum M.H. Ghaswala reported in 252 ITR 1 (SC), therefore, the assessee cannot be considered to be legally tenable and hence dismissed by the ld. CIT(Appeals).

4. On being aggrieved, the assessee preferred an appeal before the ITAT and raised the following grounds:-

(1) For that the grounds of appeal hereto are without prejudice to each other.

- (2) *For that in the facts and circumstances of the case the Order as passed by lower authorities is bad in law.*
- (3) *For the in the facts and circumstances of the case, the learned CIT(A) has erred in confirming the addition of Rs.39,45,200/- as made by the Assessing Officer on account of agricultural income earned by the assessee from cultivation of agricultural land on presumption that no agriculture activity over 15 acres of land has been done, the addition has been sustained on mere presumption and surmises. The Department arbitrarily observed that the agricultural income shown by the assessee is nothing but unexplained money. The addition of Rs.39,45,200/- in respect of agricultural income as sustained by the learned CIT(A) is arbitrary, unjustified void ab-initio and bad in law. The addition / disallowances as made is lit to be deleted.*
- (4) *That the case laws relied upon by the learned CIT(A) in his order dated 19.06.24 is not at all applicable in as much as the same relates to section 68 of the Act. The assessee does not maintain books of account.*
- (5) *For the in the facts and circumstances of the case, the learned CIT(A) has arbitrarily observed that section 115BBF. is applicable. The section 115BBE is not applicable in the case of the assessee. The imposition of tax at the rate of 60 percent together with Surcharge at the rate of 25 percent and Cess at the rate of 3 percent is arbitrary and unjust. The application of section 115BBE of the 1. T. Act. 1961 is arbitrary', unjustified, void ab-initio and bad in law.*
- (6) *For that in the facts and circumstances of the case, the department is not justified in passing the order u/s 143(3) r.w.s. 144B of the Act. No notice under proviso to section 144(1) has been given. The order as passed is arbitrary and fit to be modified. No notice under proviso to section 144(1) has been given.*
- (7) *For that in the facts and circumstances of the case, the charge of interest u/s 234B at Rs.11,49.462/- is arbitrary, unjust and bad in law. The interest as charged is fit to be*

deleted. In view of jurisdictional high court, the interest u/s 234B is chargeable on income returned.

(8) For that the appellant reserves her right to file detailed submission at the time of hearing.

5. I have heard both the sides. It was the submission of the ld. Counsel for the assessee that the assessee is having 15 acres of agricultural land and she earned an amount of Rs.39,45,200/- on account of agricultural income in the year under consideration, but the ld. CIT(Appeals) as well as ld. Assessing Officer failed to appreciate the facts given by the assessee and simply they denied and added to the income of the assessee as undisclosed income under section 68 of the Income Tax Act and also taxed as per section 115BBE. Ld. Counsel further submitted that the interest also arbitrarily charged under section 234B for an amount of Rs.11,49,462/-, therefore, he pleaded to set aside the orders passed by the lower authorities.

6. On the other hand, it was the submission of the ld. Departmental Representative that the assessee has not filed nay bills and vouchers to establish the agricultural income of Rs.39,45,200/-. Consequently, the interest for an amount of Rs.11,49,462/- was added to the total income of the assessee under section 234B of the Act. Therefore, he pleaded that there is no infirmity in the orders passed by the revenue authorities and to uphold the same.

7. I have perused all the material available on record. It is an admitted fact that the assessee is having 15 acres of agricultural land as per land records produced by the assessee. It is also an admitted fact that the assessee has not filed any proof of evidence to establish that the assessee has earned agricultural income for an amount of Rs.39,45,200/-. It is also an admitted fact that the assessee filed her returns of income for the assessment years 2012-13 to 2018-19 and in all these assessment years, the assessee has shown agricultural income merely 30 lakhs rupees, which was accepted by the Department. Considering all these facts and circumstances, 100% disallowance of agricultural income is not legally valid since the assessee is having agricultural land for an extent of 15 acres. Therefore, considering the earlier years agricultural income and returns filed by the assessee, I am of the considered view that 10% of disallowance on Rs.39,45,200/- is reasonable since the assessee has not filed vouchers and other documentary evidences. I, therefore, direct the ld. Assessing Officer to disallow 10% on Rs.39,45,200/- at normal rate of tax and add to the total income of the assessee, but not under section 115BBE.

7.1. So far as the interest under section 234B is concerned, proportionately levying interest will be made.

Therefore, the ground raised by the assessee is partly allowed.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 28/07/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 28th day of July, 2025

- Copies to :*(1) *Vijaya Singh,*
M-55/22A, S.K. Nagar,
Patna-800001, Bihar
- (2) *Income Tax Officer,*
Ward-6(1), Patna,
Lok Nayak Jay Prakash Bhawan,
Dak Bungalow Road, Patna-800001, Bihar
- (3) *CIT(A), NFAC, Delhi;*
(4) *CIT - ;*
(5) *The Departmental Representative;*
(6) *Guard File*

TRUE COPY

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.