

IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH
"SMC" BENCH PANAJI

BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

I T A. Nos. 281 & 296/PAN/2019

(A.Y.2011-12 & 2012-13)

Digamber Shankar naik, Near Naganath temple, Nandangadde, Karwar-581304, Karnataka.	Vs	ITO-Ward-2, Karwar-581304, Karnataka.
PAN NO:ACCPN8569M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Assessee by	Shri.Shivakumar.G.AR
Revenue by	Shri.Ish Gupta.Sr.DR

सुनवाई की तारीख/Date of Hearing	18.12.2025
घोषणा की तारीख/Date of Pronouncement	26.12.2025

ORDER

PER PAVAN KUMAR GADALE ,JM:

The assessee has filed these two appeals against the separate orders of the CIT(A) -Mangalore passed u/sec143(3) and u/sec 250 of the Act.

2. Since the issues involved in these two appeals are common and identical, hence they are clubbed, heard and a consolidated order is passed. For the sake of convenience, shall take up ITA No.281/PAN/2019, A.Y 2011-12 as a lead case and facts narrated. The assessee has raised grounds of appeal challenging the order of CIT(A) sustaining the addition of (i) excess value of the property over recorded value in books and (ii) credits of

agricultural income made by the assessing officer. Further the assessee has raised three additional grounds of appeal.

3. The brief facts of the case are that, the assessee is engaged in the business as dealer in eggs and also undertakes restaurant business. The assessee has filed the return of income for the A.Y 2011-12 on 20.09.2011 disclosing a total income of Rs.2,89,681/- and agricultural income of Rs.85,600/-. Subsequently the assessee has filed revised return of income on 15.06.2012 disclosing a total income of Rs.3,54,241/- and agricultural income of Rs.85,600/-. There was survey u/sec 133A of the Act conducted at the business premises of the assessee on 28.03.2012 and the income tax authorities found that the assessee has acquired a property for a consideration of Rs.20 lakhs mentioned in the sale deed, which was less than the amount specified in the sale agreement value of Rs.60 lakhs as confirmed by the seller. The assessing officer (A.O) has issued notice u/sec 143(2) of the Act. In compliance, the Ld.AR of the assessee appeared from time to time and submitted the details and explanations. Whereas the assessee has acquired two properties in the F.Y.2010-11 i.e (i) Land at survey no.3A3/3 of Baad-I village, Karwar as per sale deed dated 14.06.2010 is Rs.20Lakhs but as per sale agreement dated 30.04.2010 the value is Rs.60Lakhs and (ii) vithal apartment property as per registered sale certificate dated 23.09.2010 is for Rs.51 lakhs and the auction amount is also Rs.51lakhs

and there is no variation in consideration. Similarly in the F.Y.2011-12 the assessee has acquired aggregate land in S.no.166/1,166/2 and 166/3 for Rs.3,30,000/- as per sale deed dated 21.07.2011 but as per sale agreement dated 27.05.2011 is Rs.33Lakhs. The assessing has issued notices to explain the difference in the amount as per sale deed and sale agreement in respect of property acquired on 14.06.2010. The assessee has filed the explanations on value of the property, bank loan obtained, valuation report and bank statements in support of claim dealt by the A.O in the order. Whereas the A.O. was not satisfied with the explanations and dealt on the provisions and judicial decisions and made the addition (i) differential amount in respect of the property to the extent of Rs.40 Lakhs and (ii) credits claimed as agricultural income of Rs,85,000/- and assessed the total income of Rs45,90,480/- and passed the order u/sec 143(3) of the Act dated 24.12.2013.

4. Aggrieved by the order, the assessee has filed an appeal before the CIT(A), whereas the CIT(A) has considered the grounds of appeal, statement of facts and findings of the AO and has issued notices of hearing and the assessee has filed the submissions and remand report was called from the A.O. But the CIT(A) has confirmed the action of the A.O and dismissed the appeal. Aggrieved by the order of the CIT(A), the assessee has filed an appeal before the Hon'ble Tribunal.

5. At the time of hearing, the Ld.AR submitted that the CIT(A) has erred in confirming the action of the A.O overlooking the facts and submissions of the assessee in the proceedings. Further the Ld.AR submitted that the assessee has a good case on merits and has raised additional grounds of appeal and also filed an application for admission of the additional evidence under Rule 29 of ITAT rules. Per contra, the Ld. DR submitted that the evidences were not examined by the lower authorities. Further the Ld.DR raised objections on admission of additional grounds and evidences and has relied on the judicial decisions and the order of the CIT(A) .

6. Heard the rival submissions and perused the material on record. The sole crux of the disputed issue envisaged by the Ld.AR that the CIT(A) has erred in confirming the additions made by the A.O as the transactions are not supported with the proper documentary evidences. The Ld.AR emphasized that the assessee has submitted the details as called for by the authorities and now the assessee is filling the application for admission of additional evidence under Rule 29 of ITAT rules with the affidavit of the vendor/seller affirming the sale transaction of the property and the additional consideration paid. The Ld.DR raised objections that the additional evidence filed is entirely on different facts and contra to the submissions made by the assessee before the assessing officer in the assessment proceedings and relied on the judicial decisions and the Ld.AR has filed

rebuttal against the submissions of the revenue on the additional evidence. Prima facie, these facts are not examined by the lower authorities. Further the contentions of the Ld.DR that the additional grounds of appeal raised by the assessee does not emanates from the order of the CIT(A) and the same is not disputed by the Ld,AR of the assessee. Therefore considering the facts, circumstances, submissions and additional evidence, the assessee should not suffer for non filing of material information, as the evidence (subject to verification by the revenue authorities) play a vital role in decision making and is admitted, further the lower authorities are required to examine and verify the evidence as per the provisions of the Act. Therefore, considering the principles of natural justice, the additional grounds of appeal raised and additional evidence filed by the assessee is remitted to the file of the CIT(A) to verify and call for the report of the assessing officer on the evidence filed and to adjudicate afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information for early disposal of appeal. And the grounds of appeal of the assessee are allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

ITA No. 296/PAN/2019 A.Y. 2012-13.

8. As the facts and circumstances in this appeal is identical to ITA No 281/PAN/2019 for the A.Y 2011-12 (except variance in figures) and the decision rendered in above paragraph 6&7 would apply mutatis mutandis for this appeal also. Accordingly, the grounds of appeal of the assessee are allowed for statistical purposes.

9. In the result, both the appeals filed by the assessee are allowed for statistical purpose.

Order pronounced on 26/12/2025 as per rule 34(5) of the ITAT Rules 1963.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Panaji Dated: 26/12/2025

Copy of the Order forwarded to:

1. The Appellant,
2. The Respondent
3. The CIT(A)-
4. CIT
5. DR, ITAT
6. Guard file.

//True Copy//

BY ORDER,
(Asstt. Registrar)ITAT,
Panaji

		Date	<u>Initial</u>	
1.	Draft dictated on			PS
2.	Draft placed before author			PS
3.	Draft proposed & placed before the second member			PS
4.	Draft discussed/approved by Second Member.			PS
5.	Approved Draft comes to the Sr.PS/PS			PS
6.	Kept for pronouncement on			
7.	File sent to the Bench Clerk			
8.	Date on which file goes to the AR			
9.	Date on which file goes to the Head Clerk.			
10.	Date of dispatch of Order.			
11.	Dictation Pad is enclosed			