

**IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH: KOLKATA**

[Before Shri Mahavir Singh, JM & Shri M. Balaganesh, AM]

**I.T.A No.1237/Kol/2013**  
**Assessment Year: 2008-09**

Sri Harjit Singh Sall  
(PAN: AKOPS6684E)  
(Appellant)

Vs. Income-tax Officer, Wd-50(3), Kolkata  
(Respondent)

Date of hearing: 02.05.2016

Date of pronouncement: 04.05.2016

For the Appellant: Shri S. M. Surana, Advocate

For the Respondent: Shri Sallong Yaden, Addl. CIT, Sr. DR

**ORDER**

**Per Shri Mahavir Singh, JM:**

This appeal by assessee is arising out of order of CIT(A)-XXXII, Kolkata vide Appeal No. 102/CIT(A)-XXXII/50(3)/10-11/Kol dated 21.06.2012. Assessment was framed by ITO, Wd-50(3), Kolkata u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2008-09 vide his order dated 29.12.2010.

2. At the outset, it is noticed that this appeal is time barred by 217 days and assessee has filed condonation petition stating reasons supported by affidavit and also medical certificate and discharge summary from Woodlands Hospital. Ld. Counsel for the assessee before us stated that the order of CIT(A) was served on assessee on 09.08.2012 and appeal was filed before Tribunal on 08.10.2012. This appeal is delayed by 217 days. The reasons stated in condonation petition and affidavit is that the assessee was critically ill for last two years and has undergone by-pass surgery and also admitted to ILS Hospital in the month of December, 2012. In support of his claim the assessee enclosed prescriptions of the attending doctors, bill for purchase of medicines, various medical tests undergone as well as discharge certificate. When these documents were confronted to Ld. Sr. DR he fairly conceded that the delay can be condoned. In view of the above, we condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is against the order of CIT(A) confirming the addition made by AO treating the agricultural income as income from other sources amounting to Rs.15,40,370/-.

4. We have heard rival submissions and gone through facts and circumstances of the case. Briefly stated facts are that the assessee claimed that he has earned agricultural income at Rs.15,40,370/- and the AO during the course of assessment proceedings required the assessee to file details of land holding and other details in support of agriculture produce. The assessee claimed that he is the owner of only 5 acres of land in which he has co-ownership with others and submitted details. The assessee sold following agriculture produce:

i)	Sales of paddy	Rs.8,50,486/-
ii)	Sales of wheat	Rs.9,34,318/-
iii)	Sales of sugarcane	Rs.1,76,542/-
iv)	Sale of rice	<u>Rs.7,86,550/-</u>
		Rs.27,47,896/-

According to AO, on such a small holding of agricultural land this agricultural income is not possible and accordingly, he treated this agricultural income as income from other sources and added to the returned income of the assessee. Aggrieved, assessee preferred appeal before CIT(A) who confirmed the addition by stating that the assessee failed to give evidence regarding crop grown on the land i.e. Girdawari record of crops grown. Accordingly, he confirmed the action of AO. Aggrieved, assessee is in second appeal before Tribunal.

5. We find from the facts of the case that the assessee is owner of 5 acres of agricultural land in his native village Bains Darosa, tehsil Raikot, Ludhiana, Punjab and the details of land were given to AO which is not disputed. Needless to say, the land in Punjab is very fertile where invariably three crops are being taken by farmers. The AO has not accepted the agricultural income of the assessee on the ground that sale or purchase before him for verification. AO was of the view that the agricultural income shown by the assessee not possible on such small holdings of land. Ld. Counsel for the assessee submitted that the crops produced there were paddy, beat, rice and sugar cane and vegetable as bye products. The land is irrigated with the irrigation facilities and is situated in Raikot, Ludhiana. The land was being irrigated by the assessee through local labour employed. The crop is being recorded by the Local Patwari which the AO could have verified by issuing summons. No doubt the assessee were not having any direct evidence of the sale of the agricultural produce but the extent of land itself suggest that the assessee earned agricultural income from the said land, doing so, when the evidence of the ownership of the land was accepted there cannot be any dispute or doubt about the agricultural income from the said land. There is three crops in the entire one year period and accordingly, income has to be estimated. The assessee claimed that one crop gives income of roughly at Rs. 5

lac and for three crop it becomes Rs.15 lac. The assessee claimed that it has rightly declared agricultural income at Rs.15,40,370/-. We are of the view that this is excessive agriculture income declared by the assessee. But, the agriculture income cannot be taken at nil. In view of the fact that the assessee is holding agriculture land of five acres in Punjab, the income of the entire year can be estimated at Rs.10 lac. The balance will be treated as income from other sources. We order accordingly.

6. In the result, appeal of assessee is partly allowed.

Order is pronounced in the open court on 04.05.2016

Sd/-  
(M. Balaganesh)  
Accountant Member

Sd/-  
(Mahavir Singh)  
Judicial Member

Dated : 4<sup>th</sup> May, 2016

Jd. (Sr. P.S.)

Copy of the order forwarded to:

1. Appellant – Shri Harjit Singh Sall, CB, Sector-1, Salt Lake City, Kol-64
2. Respondent- ITO, Wd-50(3), Kolkata.
3. CIT(A) , Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,  
Asstt. Registrar.