

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1103/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

Smt. Abitha Banu,
26, Anderson Street,
Chennai - 600 001.

v. The Income Tax Officer,
Business Ward - VIII(1),
Chennai.

PAN : ADPPA 3591 A

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri D. Anand, Advocate

प्रत्यर्थी की ओर से/Respondent by : Smt. Sumathy Venkatraman, JCIT

सुनवाई की तारीख/Date of Hearing : 22.12.2016

घोषणा की तारीख/Date of Pronouncement : 31.01.2017

आदेश /ORDER

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) – 13, Chennai, dated 08.02.2016 and pertains to assessment year 2011-12.

2. Shri D. Anand, the Ld.counsel for the assessee, submitted that during the course of assessment, the Assessing Officer found

that there was increase in the capital account of the assessee to the extent of ₹40,07,749/-. The assessee explained before the Assessing Officer that the agricultural income was to the extent of ₹40,01,246/-, which was the main cause for increase in the capital account. The Assessing Officer rejected the claim of the assessee on the ground that agricultural land was owned by the children of the assessee. According to the Ld. counsel, the assessee was entitled to only 1/6th of the agricultural income. According to the Ld. counsel, out of 5 children, 3 were minors, therefore, their respective shares have to be considered in the hands of the assessee. Moreover, the minor children have not disclosed the agricultural income. Therefore, the entire agricultural income has to be treated as income in the hands of the assessee. According to the Ld. counsel, irrespective of the ownership of the land, the fact is that the agricultural income was introduced towards capital, therefore, the Assessing Officer is not justified in making the addition.

3. On the contrary, Smt. Sumathy Venkatraman, the Ld. Departmental Representative, submitted that the agricultural land does not belong to the assessee. After considering the certificate issued by Tehsildar, the Assessing Officer found that the total

agricultural income was ₹17,66,667/- as against the claim of the assessee at ₹40,01,246/-. The difference of ₹8,84,579/- was treated as income from undisclosed sources which was rightly confirmed by the CIT(Appeals).

4. We have considered the rival submissions on either side and perused the relevant material available on record. The increase in capital account to the extent of ₹40,07,749/- is not in dispute. The assessee explained before the Assessing Officer that the increase was due to agricultural income. Admittedly, the agricultural land stands in the name of the assessee's children. The fact that the assessee was cultivating the land which belongs to the children is not in dispute. Out of 5 children, 3 children were minor, therefore, the income has to be necessarily computed only in the hands of the assessee. Even otherwise, when the land was cultivated and the agricultural income was received by the assessee, the same can be basis for introduction of capital in the hands of the assessee. It is also a fact that the agricultural income was not disclosed in the hands of the children of the assessee. Since the agricultural income was not claimed by the respective children and the same was disclosed in the hands of the assessee, this Tribunal is of the

considered opinion that such an income can be a basis for increase in the capital. In view of the above, this Tribunal is unable to uphold the orders of the lower authorities and accordingly the same are set aside. The addition made by the Assessing Officer to the extent of ₹8,84,579/- is deleted.

5. In the result, the appeal filed by the assessee is allowed.

Order pronounced on 31st January, 2017 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 31st January, 2017.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-13, Chennai
4. Principal CIT-8, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.