

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK 'SMC' BENCH,
CUTTACK**

BEFORE SHRI N.S SAINI , ACCOUNTANT MEMBER

ITA No.195/CTK/2015
Assessment Year : 2009-2010

Shri Arun Kumar Swain, Prop. Maa Tarini Agro Agency, Badakhir, Nischintkoili, Salepur, Dist: Cuttack	Vs.	ITO, Ward -1(1), Cuttack
PAN/GIR No. CNIPS 4081 A		
(Appellant)	..	(Respondent)

Assessee by : None
Revenue by : Shri D.K.Pradhan, DR

Date of Hearing : 17 /01/ 2017
Date of Pronouncement : 17/01/ 2017

ORDER

This is an appeal filed by the assessee against the order of CIT(A)-Cuttack,
dated 9.1.2015, for the assessment year 2009-2010.

2. The assessee has raised the following grounds of appeal:

"1 That the order as framed by the Learned I.T.O. as well as the Learned C.I.T.(A) is unjust and improper on the facts and in the circumstances of the case.

2. That both the Learned I.T.O. and C.I.T.(A) have treated my income as a rental income instead of by hire charges of Trjacteps.

3. That the learned I.T.O. and C.I.T.(A) accepted the Tractor Rent (paid to Tractor owners by me) and subsequent expenses upto my place of business but did not accept overheads i.e. my office expenses, staff salary, day to day expenses of maintenance of accounts, expenses at Delhi, incidental wear & tear and sudden expenses required for vehicle maintenance and incidental expenses which is almost 16% of the Gross Receipts.

4. That the learned I.T.O. and C.I.T.(A) erred in law wrongly accepting the expenses earned to get the Tractors without considering the expenses incurred by running the business i.e. to get profit if any.

5. That both the Learned I.T.O. and C.I.T.(A) never accepted my details about 16% of G.P.

6. That the learned I.T.O. and C.I.T.(A) forgotten that tractor hired by me for business is utilised by a Delhi based Company M/s. Shiv-vani Oil & Gas Exploration Service Ltd., Receipt from the company is my Gross income after 16% of estimated expenses. I spent 7,17,020.00 towards procurements of Tractors the net profit is determined.

7. That as no cash transaction have ever been made the actual receipt was Rs.16,36,980.00 instead of Rs.18,36,000.00 shown as under 26AS.

26 AS	Rs.18,36,000.00
Real Receipt	Rs.16,36,780.00

Hence addition of 1,12,363.00 is improper, illegal, arbitrary and wrong. We are fortunate that the learned C.I.T.(A) accepted the proposal not to " add 1,12,363.00 to the profit".

8. That order as framed is not maintainable in the eyes of law and kindly be knocked off in toto."

3. Notice of hearing was sent to the assessee on dt. 8.1.2016, 24.8.2016, 7.10.2016, 11.11.2016, 18.11.2016 and 22.12.2016, when none appeared on behalf of the assessee and, therefore, the appeal was adjourned to

17.1.2016 as a last opportunity to the assessee. Notice dated 23.12.2016 fixing the date of hearing of the appeal on 17.1.2016 was sent through RPAD, which was served on the assessee on 29.12.2016 as evidenced from the acknowledgement card, placed on record. When the matter was called for hearing today, none appeared on behalf of the assessee and neither any adjournment petition was filed. Therefore, the appeal was heard exparte qua the assessee and disposed of the same after considering the submission of Id D.R. and on the basis of materials available on record.

4. Ld D.R. relied on the order of Id CIT(A).

5. I find that the Id CIT(A) has adjudicated and decided the grounds of appeal as under:

"The AO during scrutiny found that the assessee's gross receipt from rent has been Rs.18,36,000/- and the assessee had disclosed in the bank account an amount of Rs.16,36,980/-. The excess credit in the bank account not disclosed by the assessee amounting to Rs.1,12,363/- is added to the total income of the assessee by the AO. The AO further found that the assessee has estimated income @ 16% on gross rent of Rs.18,56,000/-. The AO found that the assessee had claimed expenses on different heads and therefore decided that there was no reason to estimate the income from gross rent. During scrutiny, the assessee has produced expenses of Rs.5,88,500/- as tractor hire charges and Rs.1,28,520/- as other expenses. The AO deducted such expenses from the gross rent received as per TDS certificate and found the income taxable at Rs.11,18,980/-.

4. The appellant during appeal hearing submitted that he had shown 16% of profit on the rent received therefore the same should be accepted.

5. The AO found that Rs.18,36,000/- have been credited to the assessee as per TDS Certificates and 26AS Statements. The assessee had shown

Rs.16,36,980/- as gross receipt. But while computing the income of the assessee the AO had taken the gross rent receipt as Rs.18,36,000/- instead of Rs.16,36,980/- shown by the assessee and deducted expenses claimed by the assessee and found by him. Therefore, addition of the amount of Rs.1,12,363/- as excess gross receipt becomes double addition. The AO is directed to delete the addition. The AO has found out the expenses claimed and incurred by the assessee amounting to Rs.7,17,020/- and deducted the same from the gross receipt of the assessee to come to the net taxable income. I do not find any anomaly in the action of the AO. The same is therefore confirmed."

6. I am fully satisfied and in agreement with the order of the Id CIT(A) quoted above and do not find any good and justifiable reason to interfere with the order of Id CIT(A). Hence, I confirm the order of the Id CIT(A) and dismiss the grounds of appeal of the assessee.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 17/01/2017.

Sd/-

(N.S.Saini)

ACCOUNTANT MEMBER

Cuttack; Dated 17/01 /2017
B.K.Parida, SPS

Copy of the Order forwarded to :

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

BY ORDER,

ASST.REGISTRAR,
ITAT, Cuttack