

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.494/Del./2019
Assessment Year 2015-2016

Shri Parvinder Singh, Panipat, PANBSUPS3274D C/o. Devinder K Jain & Associates, 206, 2 nd Floor, 79, Kedarnath Marg, Daryaganj, New Delhi-002.	vs.,	The Income Tax Officer, Ward-3, Palika Bazar, Panipat, PIN 132 103 Haryana.
(Appellant)		(Respondent)

For Assessee :	Shri Kartik Jain, C.A. And Shri D.K. Jain, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	19.08.2019
Date of Pronouncement :	02.09.2019

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(A), Karnal, Dated 26th November, 2018 for assessment year 2015-16, challenging addition of Rs.10,78,544/-.

2. Briefly the facts of the case are that the return of income was filed on 16th March, 2016 declaring taxable income at Rs.2,70,010/- + agricultural income of

Rs.24,78,544/-, which was processed under section 143(1) of the Income Tax Act, 1961. The case was selected for scrutiny to examine the issue of large agricultural income. The assessee derived income from salary and agricultural produce. The assessee was asked to produce Form-J, copy of fard, Jamabandi and bank account for relevant assessment year. The assessee produced copy of girdauri and capital account of assessee. The assessee claimed that he is owner of 48 Kanals of agricultural land and has also cultivated land of his brothers namely Shri Satbir and Shri Randhir Singh, who owned 96 kanals of agricultural land. Therefore, assessing officer asked for further details and details of family members of assessee. Assessee produced copy of fard of agricultural land owned by assessee. Perusal of fard reveals that the assessee owned 6 acres of agricultural land only, whereas the assessee has shown agricultural income of Rs.24,78,544/- in assessment year under appeal which is very much on the higher side as against the agricultural land owned by the assessee. The assessee was asked to furnish details of the land holdings

by him along with the land taken on lease, in confirmation of the cultivation of agricultural land. The assessee submitted affidavit of Shri Satbir and Randhir Singh along with the copy of the agreement made with Shri Rajesh confirming the lease of land taken by assessee. The A.O. noted that reply of assessee would reveal that assessee cultivated 28 acres of land during the year, out of which, 6 acres owned by him and the remaining 22 acres was taken on lease from various persons. Ultimately, reply of the Counsel for Assessee was received through DAK in which assessee stated that it is not possible to produce balance sheet and statement of affairs of the assessee. However, bank statement of the assessee is produced and requested that agricultural income of Rs.10,97,931/- as per revised return filed by the assessee may be accepted.

2.1. The assessing officer noted that assessee is a partner in the firm M/s. Sun Research and Breeding Farm and the amount of salary and interest received from the firm has been shown as income from business or profession. The assessee was asked to furnish details of agricultural income

earned. The assessee submitted that he was cultivating 48 kanals of agricultural land which is owned by him and 96 kanals taken on lease from his brothers namely Shri Satbir and Shri Randhir Singh. The Commission Agent was also called for whose statement was recorded on oath who have stated that assessee has sold agricultural crops with them only during assessment year under appeal and prior to it or subsequent to assessment year no agricultural produce was sold and that sale consideration of agricultural produce was made in cash. Statement of Shri Satbir and Shri Randhir Singh were also recorded as they were produced by the assessee because of summons sent to them which could not be served upon them. In the statement of Shri Satbir, he has stated that he was retired as JBT Master and owns 6 acres of agricultural land, out of which, 4 acres are being cultivated by him and 2 acres has been given to the assessee on lease. He was asked to explain whether any loan has been taken on Kisan Credit Card on the agricultural land owned by him. In response thereto, it is stated by him that he has availed this facility from the

Bank. The assessing officer noted that loan on Kisan Credit Card is being given on the basis of agricultural land cultivated by the Farmer. Further, same was the position in the case of Shri Randhir Singh brother of the assessee. The assessing officer, therefore, noted that Shri Satbir and Randhir Singh both brothers of the assessee had cultivated their agricultural land by themselves and no part of such land have been given to the assessee. The assessing officer, therefore, asked the assessee as to why the agricultural land owned by him of 6 acres may not be considered for the purpose of estimating agricultural income at Rs.3 lacs in total and rest be not treated as income from undisclosed sources. The assessee in order to justify his explanation immediately changed his statement and submitted that he has also taken 14 acres of agricultural land from Shri Rajesh and cultivated during the assessment year under appeal. In support of the same land, agreement was also furnished which revealed that it has been purchased on 8th June 2017 and was also executed on the same day on 8th June 2017. The assessing officer has also noted that

assessee has concocted the story of taking the land on lease from Shri Rajesh. The assessing officer further noted during assessment proceedings that assessee filed revised income tax return reducing the agricultural income from Rs.24,78,544/- to Rs.13,67,940/-. Since the agricultural income was reduced without any basis, it was not accepted. The assessing officer also noted that in preceding assessment years 2013-14 and 2014-15 assessee has shown agricultural income of Rs.7,97,773/- and Rs.8 lacs. In subsequent assessment year 2016-17 assessee has shown agricultural income of Rs.5 lacs only. The assessing officer, therefore, noted that assessee has shown very high agricultural income and the same have not been substantiated through any evidence or material on record. Thus, assessee has also failed to prove any fact before the assessing officer. The assessing officer, therefore, considering the totality of the facts and circumstances, considered that assessee has cultivated 28 acres of land and estimated that assessee has earned agricultural income of Rs.50,000/- per acre, therefore, estimated the agricultural

income of Rs.14 lacs and rest of the amount of Rs.10,78,544/- was considered as income from other sources, addition of which, was made to the returned income. The Ld. CIT(A) confirmed the addition and dismissed the appeal of assessee.

3. I have heard Learned Representatives of both the parties and perused the findings of the authorities below. Learned Counsel for the Assessee referred to copy of the return of income filed at page number 98 of the paper book and referred to PB-109 to show that gross agricultural income was shown in the return in a sum of Rs.24,78,544/- and expenses have been shown at NIL [zero]. He has submitted that wrongly the expenses could not be shown in the return. PB-52 is profit and loss account of agricultural income to show the total agricultural income receipts in a sum of Rs.24,78,952/- and after expenses, the net profit have been shown in a sum of Rs.10,97,930/-. He has submitted that assessee produced all the Mandi receipts and also produced all the persons whose land have been taken on lease. Therefore, burden upon assessee has been

proved that assessee earned agricultural income. Therefore, addition may be deleted.

4. On the other hand, Ld. D.R. relied upon the Orders of the authorities below and submitted that assessee revised the return of income to reduce the agricultural income and no evidence of doing any agricultural activity have been filed by assessee. In earlier and subsequent assessment years, assessee has shown lesser agricultural income. Therefore addition is wholly justified.

5. I have considered the rival submissions and do not find any merit in the appeal of assessee. The assessee claimed to have earned agricultural income of Rs.24,78,544/- in the return of income. The same amount have been shown in the return of income as gross agricultural receipts. The expenditure incurred on agriculture have been shown at NIL [zero]. It is highly improbable that without incurring any expenditure assessee would have earned such agricultural income. The assessee in the profit and loss account has claimed agricultural

expenses and net profit on account of agricultural income have been shown at Rs.10,97,930/-. This fact itself disentitle the assessee for making claim of higher agricultural income. The assessee and his brothers were not having huge agricultural land so as to earn that much huge agricultural income. It may also be noted here that assessee has filed revised return of income during assessment proceedings reducing the agricultural income from Rs.24,78,544/- to Rs.13,67,940/-. Though this revised return was not accepted by the assessing officer, but, it would show that assessee has in fact not earned huge agricultural income of Rs.24,78,544/-. The assessee in the earlier year as well as in subsequent years have shown meager agricultural income ranges from Rs.5 lacs to Rs.8 lacs only. The assessee did not produce any sufficient documentary evidences before the authorities below to claim huge agricultural income of Rs.24,78,544/- earned out of small agricultural land holdings. The agreement with Shri Rajesh was executed on 8th June 2017 i.e., after closure of the financial year relevant to assessment year under appeal.

Therefore, it is concocted and fabricated by the assessee. Considering the totality of the facts and circumstances of the case and conduct of the assessee in changing stand at different level and claiming lesser agricultural income before the authorities below would clearly show that authorities below were very reasonable in estimating the agricultural income at Rs.14 lacs, though the assessee claimed lesser amount of the same subsequently. Therefore, authorities below were justified in considering Rs.10,78,544/- as income from other sources. No interference is called for in the matter. I, therefore, dismiss the appeal of the assessee.

6. In the result, appeal of assessee dismissed.

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 2nd September, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
Delhi.

Date of dictation	20.08.2019
Date on which the typed draft order is placed before the dictation Member	30.08.2019
Date on which the approval draft comes to the Sr. PS	02.09.2019
Date on which the fair order is placed before the Dictation member for pronouncement	02.09.2019
Date on which the fair order comes back to the Sr. P.S.	02.09.2019
Date on which the final order is uploaded on the website of ITAT	02.09.2019
Date on which the file goes to the Bench Clerk	03.09.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order.	