

आयकर अपीलीय अधिकरण, 'बी' (एस एम सी) न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' (SMC) BENCH, CHENNAI
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./ITA Nos.: 02 & 03 / CHNY / 2020
निर्धारण वर्ष / Assessment Years: 2011-12 & 2012-13

Shri Varusai Mohammed
Rowther Kazakamal,
142, K.K. Nagar,
Madurai – 625 020.

v. The Income Tax Officer,
Non-Corporate Ward 2(3),
Madurai.

PAN : AJBPK9470G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri N. Quadir Hoseyn, Advocate
: Ms. R. Anitha, JCIT

सुनवाई की तारीख/Date of Hearing : 09.03.2020

घोषणा की तारीख/Date of Pronouncement : 09.03.2020

आदेश /O R D E R

These are appeals filed by the assessee against the common order of the learned Commissioner of Income Tax (Appeals)-2, Madurai in ITA Nos.046/2014-15 & 002/2015-16 dated 11.11.2019 for the assessment years 2011-12 and 2012-13.

2. Shri N.Quadir Hoseyn, Advocate represented on behalf of the assessee and Ms. R.Anitha, JCIT represented on behalf of the Revenue.

3. It was submitted by the Ld.AR that the only issue in the assessee's appeals was against the action of the Ld.CIT(A) in confirming the action of the Ld.AO in treating part of the agricultural income disclosed by the assessee as income under the head 'income from other sources'. It was the submission that the assessee is basically an agriculturist. He lives in a joint family, which owns nearly 133.4 acres of land in Dindigul District. It was the submission that out of the said land, the assessee himself owns nearly 87.57 acres. It was the submission that for the assessment year 2011-12, the assessee had disclosed income of Rs.29,21,016/- and the Assessing Officer had estimated the agricultural income at Rs.8,54,656/- and treated the balance as income under the head 'income from other sources'. It was the further submission that for the assessment year 2012-13, the assessee had disclosed agricultural income of Rs.33,10,710/- and the Assessing Officer had estimated the agricultural income at Rs.13,49,656/- and treated the balance as income under the head 'income from other sources'. It was the submission that the Village Administrative Officer had also verified the facts of the agriculture income and the Inspector of Income Tax, Ward-1, Dindigul had also made detailed and thorough enquiries. It was the submission that the factum of the agricultural income has not been disproved. It was the submission that the agricultural income of the assessee has been

estimated. It was the submission that the claim of the agricultural income of the assessee may be accepted.

4. In reply, the Ld.DR vehemently supported the orders of the Ld.AO and the Ld.CIT(A). It was the submission that the assessee was able to produce the Patta of land to an extent of only 87.57 acres. It was the submission that some of the lands were also Government lands which have been encroached by the assessee. It was the submission that the order of the Ld.CIT(A) is liable to be upheld.

5. I have considered the rival submissions. On perusal of the assessment order, the last page shows that the Assessing Officer himself agrees that the assessee is a high flying agriculturist. It could be presumed that the Assessing Officer has been led to believe that there is some other income for the assessee because the assessee owns a fleet of vehicles, which is mentioned in the assessment order. Just because, the assessee owns a fleet of vehicles, it does not mean that the assessee may not have agricultural income. In the assessment order, the Assessing Officer also accepts that the assessee has produced the Patta in respect of 87.57 acres of land. He only goes on to hold that the other Pattas which have been produced are in respect of lands in the name of the assessee's married daughter and his son and others. The Assessing Officer further accepts the fact that there

are 501 coconut trees on the said land. The Assessing Officer also accepts that the mango orchard is there on the land. This being so, considering the factum of the acreage of land being held by the assessee, I'm of the view that the agricultural income declared by the assessee does not need any interference. In the result, the assessment of the agricultural income of the assessee as done by the Assessing Officer is reversed. The Assessing Officer is directed to accept the agricultural income as disclosed by the assessee.

6. In the result, the appeals of the assessee are allowed.

Order pronounced in the open court on 9th March, 2020 at Chennai.

Sd/-
(जॉर्ज माथन)
(George Mathan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 9th March, 2020

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |