

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL "A"
BENCH, PUNE

BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपीलसं. / ITA No.701/PUN/2018
निर्धारण वर्ष /Assessment Year: 2011-12

Ranganath Salke, Plot No.2, Sector-2, Saraswati Niwas, Indrayani Nagar, Bhosari, Pune – 411026. PAN: AKXPS 7012 D	Vs	The Addl. Commissioner of Income Tax, Range-8, Pune.
Appellant/ Assessee		Respondent/ Revenue

Assessee by	None.
Revenue by	Shri S.P.Walimbe – DR
Date of hearing	27/06/2022
Date of pronouncement	05/08/2022

आदेश/ ORDER

PER DR.DIPAK P.RIPOTE, AM:

This appeal filed by the Assessee is directed against the order of Id.Commissioner of Income-tax(Appeals)-6, Pune, order dated 09.02.2018 emanating out of order under section 143(3) of the Act dated 31.12.2013 for the Assessment Year 2011-12. The Assessee has raised the following grounds of appeal:

"1. On facts and circumstances prevailing in the case and as per provisions & scheme of the Act it be held that addition made of Rs.49,37,145/- by restricting the claim of agricultural income claimed by the appellant at Rs .53 Lakhs & thereby treating the same as income from other sources, is not in accordance with the provision of the Ac The additions so made be deleted or in alternate reduced substantially. Just & props relief granted to the appellant.

2. *On facts and circumstances prevailing in the case and as per provisions & scheme of the Act it be held that the directions given by the learned Commissioner of Income Tax Appeals to the effect to open the assessments of the earlier years for re-examining the claims of the appellant which are accepted u/s 143(3) by conducting the enquiries in respect of earlier years, which were not pending before him, is contrary to the principles of law & therefore unjust, unwarranted & not tenable in Law. Just & proper relief granted to the appellant.*

2. Brief facts of the case are that the Assessee had filed Return of Income for the A.Y. 2011-12 on 31.08.2011 declaring total income of Rs.96,79,737/- which includes income from proprietary concern M/s.J.B.M.Industries , Income from House Property and Income from Other Sources. Over and above this, the assessee has shown agricultural income of Rs.53 lakhs as exempt income. During the scrutiny proceedings, the Assessing Officer(AO) asked the assessee to submit the details of agricultural income. The assessee submitted that assessee owns 7.29 Hectares i.e. 18 Acres of land. The assessee claimed that he had cultivated Onions which were sold to exporters, namely M/s.Shangar Exporters, Pune and M/s.S.M.Trading, Mumbai.

3. During the assessment proceedings, the assessee claimed that he had appointed someone for carrying out agricultural activity and the total income is shared with that person. The assessee explained during the assessment proceedings that Rs.53 lakhs was

received as net agricultural income by selling Onions. He claimed that the amounts were received from following persons:

Date	Party	Amount
05.05.2010	Shangar Exports	9,00,000/-
08.05.2010	Shangar Exports	9,00,000/-
14.05.2010	Shangar Exports	10,00,000/-
14.03.2011	S.M.Trading	10,00,000/-
19.03.2011	S.M.Trading	15,00,000/-
	TOTAL :	53,00,000/-

4. During the assessment proceedings, the assessee also claimed that he had received cash of Rs.5.30 lakhs from sale of Watermelon, Colriander, Brinjel etc. However, subsequently, he withdrew the said claim by letter dated 19.12.2013 as he could not produce evidence in support of the said income. During the assessment proceedings, the AO asked the assessee to substantiate his claim for Agricultural Income by submitting copies of bills for sale of Onion, copies of bills, vouchers for purchase of Fertilizers, Seeds etc. However, the assessee could not produce any documentary evidence for the said income of Rs.53 lakhs. Therefore, the assessee submitted during the assessment proceedings as under:

“Since no details and proof of expenditure was maintained by the assessee against the sale of onion of Rs. 53 lakhs, we request you to please accept the justified amount of expenditure as allowable against the same. We accept such addition against the expenditure not put in respect of sale of

onion to buy peace of mind and not to litigate the matter and close the assessment proceedings.”

6. The AO based on article dated 15.07.2011 titled “Economics of Onion Cultivation and its Marketing pattern in Satara district of Maharashtra”, appearing in the International Journal of Agricultural Sciences and relating to Financial Year 2010-11, wherein yield and profit on onion cultivation in Maharashtra has been quantified, arrived at the Agricultural Income of the assessee for 7.63 Hectares of land. The relevant portion of Assessment order is reproduced here as under :

“As per the said article, the average yield per hectare of onion production in Maharashtra during F.Y. 2010-11 is 258.5 quintal and cost of production of onion per quintal is Rs.397.04 and net profit per quintal is Rs.192.66. In the assessee’s case, considering land holding of 7.3 hectare the production of onion would come to 1883 quintals and consequent net agricultural income would be Rs.3,62,855/-. The said amount of Rs.3,62,855/- is hereby held to be the actual net agricultural income derived by the assessee and the balance amount of Rs.49,37,145/- (53,00,000 – 3,62,855) is held to be assessee’s income and is accordingly added to the assessee’s income under the head “Income from other sources.””

7. Before making the addition, the AO had given a show cause in which the AO had reproduced the content of the article relied by him.

8. Aggrieved by the said addition, the assessee filed appeal before the Id.CIT(A). Before the Id.CIT(A), the assessee has not produced any specific evidence regarding his claim of agricultural income.

Therefore, after considering all the facts of Id.CIT(A) upheld the order of the AO.

8. No one has appeared on behalf of the assessee before us. It is also observed that last Two hearing, no one had appeared as a result hearings were adjourned. Therefore, we are of the opinion that enough opportunity has been given to the assessee and it seems that assessee do not intend to appear. Therefore, with the help of the Id.DR, we have studied the records and decide the case based on the records.

9. The assessee has claimed income of Rs.53 lakhs from onion exports. The assessee claimed that cultivation was done by Mr.Abba Ganpat Raskar and the Net Profit is shared in the ratio of 50:50 between assessee and Mr.Abba Ganpat Raskar. The assessee claimed that his share is Rs.53 lakhs. It means the total gross receipts must have been more than 1.5 crore. The assessee also claimed that the onions had been sold to exporters. However, the assessee has failed to file copies of any receipts issued by these so-called exporters, failed to file complete addresses of the so-called exporters. Rather, has not filed a single document to prove the genuineness of agricultural income claimed by him. To claim any exempt income, onus is on assessee to prove genuineness of the said exempt income. In this case, the assessee failed to prove genuineness

of the said exempt income or said agricultural activity. Therefore, in the absence of the details, the AO relied on a scientific formulae to arrive at a per acre yield and decided that Net Profit from 7.3 Hectares of land owned by assessee would have been Rs.3,62,855/-. We do not find any infirmity in the approach of the AO. We will like to reproduce part of Economic Survey of Maharashtra published by Government as under :

Quote *“Impact of Excess Rains*

7.13 Excess rains during June-September, 2010 and untimely rains during October-November, 2010 in some parts of the State damaged various agricultural and horticultural crops on 11.46 lakh ha. area. The major affected agricultural/horticultural crops were Paddy (4.25 lakh ha.), Onion (1.75 lakh ha.), Grapes (0.60 lakh ha.) etc. The State Government has taken an initiative to provide assistance to the farmers affected due to this natural calamity. The Government has declared a relief package to assist the farmers, whose 50 per cent or more crops/fruit crops are affected due to excess rains during June to September, 2010 and untimely rains during October & November, 2010.” Unquote.

10. Thus the government of Maharashtra had categorically mentioned that Onion farmers suffered due to unseasonal heavy rains in Maharashtra. So much so that Government of Maharashtra had to announce financial help for the farmers. However, assessee had claimed that his land is very well irrigated. Even if we presume that assessee's land is very well irrigated and the formulae applied by the AO is for the average yield of District Satara, then in our opinion, we may consider that assessee had earned Rs.5 lakhs as Net Agricultural

Income instead of Rs.3,62,855/- calculated by the AO, accordingly, we sustain the addition of [53,00,000 - 5,00,000 = Rs.48 lakhs] Rs.48 lakhs. Thus we sustain the addition of Rs.48 lakhs, accordingly, grounds of the assessee are partly allowed.

11. In the result, appeal of the Assessee is Partly Allowed.

Order pronounced in the open Court on 5th Aug, 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 5th Aug, 2022/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.