

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 944/JPR/2024
निर्धारण वर्ष/Assessment Year : 2012-13

Shri Ramji Lal S/o Shri Radhu Gupta Village: Natavada, Newai, Tonk	बनाम Vs.	The ITO Ward – Tonk Tonk
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AGDPL 1109 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 945/JPR/2024
निर्धारण वर्ष/Assessment Year : 2013-14

Shri Ramji Lal S/o Shri Radhu Gupta Village: Natavada, Newai, Tonk	बनाम Vs.	The ITO Ward – Tonk Tonk
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AGDPL 1109 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 946/JPR/2024
निर्धारण वर्ष/Assessment Year : 2014-15

Shri Ramji Lal S/o Shri Radhu Gupta Village: Natavada, Newai, Tonk	बनाम Vs.	The ITO Ward – Tonk Tonk
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AGDPL 1109 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 947/JPR/2024
निर्धारण वर्ष/Assessment Year : 2015-16

Shri Ramji Lal S/o Shri Radhu Gupta Village: Natavada, Newai, Tonk	बनाम Vs.	The ITO Ward – Tonk Tonk
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AGDPL 1109 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 948/JPR/2024
निर्धारण वर्ष/Assessment Year : 2016-17

Shri Ramji Lal S/o Shri Radhu Gupta Village: Natavada, Newai, Tonk	ब्लाम Vs.	The ITO Ward – Tonk Tonk
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AGDPL 1109 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ITA No. 949/JPR/2024
निर्धारण वर्ष/Assessment Year : 2017-18

Shri Ramji Lal S/o Shri Radhu Gupta Village: Natavada, Newai, Tonk	ब्लाम Vs.	The ITO Ward – Tonk Tonk
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AGDPL 1109 L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Anoop Bhatia , CA
राजस्व की ओरसे / Revenue by : Mrs. Anita Rinesh, JCIT-Sr.DR.

सुनवाई की तारीख / Date of Hearing : 03/12/2024
उदघोषणा की तारीख / Date of Pronouncement : 03 /12/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

The above captioned 6 appeals filed by the assessee have been heard together, on request, as common issue of fact and law as regards assessment and calculation of agriculture income is involved, and accordingly, all these appeals are being disposed of vide this common judgment.

2. Assessee is feeling aggrieved by six orders passed by Learned CIT(A), whereby his six appeals challenging six separate assessments framed by the Assessing Officer relating to the AY 2012-13 to 2017-18 have been dismissed.

3. The six assessment orders were passed by the Assessing Officer computing total income of the assessee by making addition as regards income from other source, in view of his observations made in para 7 and 8 of the assessment orders, holding that the agriculture income self assessed by the assessee was not genuine and justifiable.

In appeal, Learned CIT(A) upheld all the six assessment orders and thereby dismissed all the six appeals filed by the assessee.

Hence, the appellant is before this Appellate Tribunal by way of six appeals.

4. Arguments heard. File perused.

5. Learned AR for the appellant has raised only one contention. The contention is that the Assessing Officer has fallen in error in estimating the agriculture income of the assessee for the six financial years corresponding to the Assessment Years from 2012-13 to 2017-18, while taking into consideration the agriculture income self-assessed by the assessee for the Financial year 2017-18 corresponding to AY 2018-19, and as such the impugned assessments upheld by CIT(A) deserve to be set aside.

6. As noticed above, while assessing total income of the assessee-appellant, Assessing Officer has made **addition** in relation to all the six assessment years i.e. from 2012-13 to 2017-18 under the head “**Income from other source**” as discussed in para 8 of each assessment order.

7. In the Return of Income pertaining to the corresponding financial years, the assessee was found to have disclosed agriculture income as well.

8. While rejecting the agriculture income calculated by the assessee for all these years, Assessing Officer has estimated the agriculture income at Rs.1,25,800/-.

9. It is true that while framing impugned assessments, the Assessing Officer took into consideration the agriculture income self-assessed by the assessee as regards the Financial Year 2017-18 corresponding to AY 2018-19. We find substance in the submission on behalf of the appellant that the Assessing Officer should not have taken into consideration the agriculture income estimated by the assessee as regards the subsequent Financial Year 2017-18. But, at the same time, we may observe that the Assessing Officer appears to have so assessed the agriculture income having regard to the agriculture income for the subsequent financial year due to failure on the part of the assessee to provide the best evidence as regards the agriculture income disclosed by him in the ITRs.

10. In the opinion of the Assessing Officer, the agriculture income self assessed by the assessee was not genuine and justifiable, due to the following reasons:

“7.....This income is not found genuine and justifiable for the following reasons:

a) The assessee has not given any basis or evidence in support of average production per bigha as estimated in his explanation.

b) The assessee does not contain any evidence in support of agriculture produce sold;

c) The total area of agriculture land shown is not correct. As per copies of Jamabandi, actual land area is 15.98 bigha as against 17.86 bigha declared by assessee. Hence the production estimated is not correct.

d) The assessee himself has shown agriculture income of Rs. 1,25,800/- in AY 2018-19 on the same area of land on higher rate of MSP in comparison to year under consideration.

8. Above facts were brought into notice of assessee vide note sheet entry dtd. 3.12.2019 for which no plausible explanation was filed. Hence, "in the entirety of the facts, agriculture income is estimated at Rs. 1,25,800/- which was disclosed by the assessee in the AY 2018-19. The remaining amount Rs. 99,800/- (225600-125800) is assessed as Income from other sources'

Penalty proceedings u/s 271(1)(c) of the Act is also initiated for furnishing inaccurate particulars of income.”

11. Let's see as to what is stated to have been produced by the assessee before the Assessing Officer in support of his claim as regards agriculture income. In support of the agriculture income, the assessee filed before the Assessing Officer copies of Jamabandi and Khasra girdawari.

12. However, for the reasons best known to the assessee, he did not produce any evidence in proof of sale of agriculture produce. This is the best evidence, which the assessee could produce in support of his claim as regards agriculture income. But, admittedly, he did not lead any such evidence before the Assessing Officer or even before the CIT(Appeal).

13. In the course of arguments, Learned AR for the assessee submits that for want of proper advice, the assessee appears to have not produced the best evidence as regards “average production per bigha” as per his claim put forth before the Assessing Officer and in the form of documents pertaining to sale of agriculture produce, in proof of agriculture income, and accordingly, requests that the matter may be remanded to Assessing Officer to enable the assessee to produce all the relevant material on the point of agriculture income.

In this regard, there is no objection from the side of the Revenue.

14. For the purposes of determination of agriculture income, an assessee is required to furnish documents prepared at the time of sale in Mandi, including record maintained by the commission agents and the documents supplied to the farmer/seller and also Bank statement depicting deposit of any such amount by way of agriculture income. Assessee is also required to furnish bills as regards

expenditure incurred on agriculture activities in support of the claim of agriculture income.

15. The authorities below have categorically observed that the assessee self-assessed income from agriculture for all these years on the basis of area cultivated and average production per bigha, and further that in estimating the gross income, the assessee was found to have applied MSP rate. They have also observed that the assessee did not produce any basis for calculating or estimating average production. Therefore, the Assessing Officer and Learned CIT(A) were justified in arriving at the conclusion that the income self assessed by the assessee in the abovesaid manner was not genuine and justifiable.

16. Admittedly, for the first time, the assessee produced before CIT(A), a certificate purported to have been issued by the Patwari concerned on 9.12.2023. Said certificate is to the effect that land stands registered in the name of the assessee in village Natwada; that said land is cultivable land; and that the yield of Sarson crop from this land is 7 quintal per bigha.

Admittedly, no such certificate was filed before the Assessing Officer. No reason has been furnished for non production thereof in the assessment proceedings.

Learned AR does not dispute that said certificate does not contain particulars of land or share of the assessee; or the area under cultivation or the production per bigha ever got recorded by the assessee before the Revenue authorities.

Faced with all this, Learned AR submits that the assessee be permitted to produce before the Assessing Officer entire relevant evidence after collecting the same from the Revenue authorities.

Learned DR for the Revenue has no objection on this aspect.

Conclusion

17. In view of what has been discussed above, and in view of the submissions put forth seeking opportunity to produce relevant material before the Assessing Officer, in the interest of justice, we deem it to be a fit case, where the matter needs to be remanded to the Assessing Officer, for adjudication on the point of assessment afresh, after providing another opportunity to the assessee to produce the best evidence on the point of production, expenditure, sale and income from agriculture during the concerned financial years under consideration.

Result

18. As a result, all these six appeals are disposed of and matters are remanded to the Assessing Officer for adjudication on the point of assessment(s) afresh, after providing another opportunity to the assessee to produce the best evidence on the

point of production, expenditure on agriculture activities, sale of agriculture produce and income from agriculture during the concerned financial years under consideration.

19. Having regard to the opportunities already afforded by the authorities below to the assessee and taking into consideration failure on the part of the assessee to produce best evidence, the assessee is burdened with costs of Rs.6,000/-,as a whole, as regards all the six matters.

20. The assessee to deposit costs in Prime Minister's National Relief Fund. Receipt to be produced before the Assessing Officer. Assessing Officer to satisfy regarding deposit of costs before commencement of the proceedings.

21. Copy of the order be placed in the connected appeal files.
Announced in open court: 03-12-2024.

Sd/-
(राठौड़ कमलेश जयन्तभाई)
(RATHOD KAMLESH JAYANTBHAI)
लेखा सदस्य / Accountant Member

Sd/-
(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur
दिनांक / Dated:- 03 /12/2024

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Shri Ramji Lal, Tonk.
2. प्रत्यर्थी / The Respondent- ITO, Ward-Tonk
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 944-949/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar