

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

Before Sh. J. S. Reddy, AM And Sh. George George K., JM

ITA No. 4062/Del/2013 : Asstt. Year : 2009-10

Dy. Commissioner of Income Tax Circle-17(1), New Delhi	Vs	Shri Ashok Tiwari, E-46, Vasant Vihar, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AACPT7693L		

Assessee by : None

Revenue by : Smt. Parvinder Kaur, DR

Date of Hearing : 16.7.2014	Date of Pronouncement : 18.7.2014
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ORDER

Per George George K., JM:

This appeal at the instance of the department, is directed against CIT(A) order dated 28.3.2013. The relevant assessment year is 2009-10.

2. The solitary issue that arises for our consideration is, whether the CIT(A) is justified in deleting the addition of Rs. 10,25,000/- made by the Assessing Officer u/s 68 of the Income Tax Act.

3. Briefly stated the facts of the case are as follows:

The assessee is an individual. The return of income was filed on 29.7.2009 declaring an income of Rs. 36,04,069/- and agricultural income of Rs. 10,25,000/-. The assessment was taken up for scrutiny by issuance of notice u/s 143(2) of the Act. In the course of scrutiny assessment, the assessee was asked to explain the source of cash

deposited in his bank account amounting to Rs. 9,95,000. It was submitted by the assessee that the said deposit are out of the agricultural income declared. The assessee was asked to produce the details of the agricultural income. Since, there was no details forthcoming within the stipulated time, the agricultural income declared by the assessee amounting to Rs. 10,25,000/- was treated as cash credit u/s 68 of the Act, 1961.

4. The assessee being aggrieved by addition of Rs. 10,25,000/- u/s 68 of the Act, filed an appeal before the First Appellate Authority. The CIT(A) allowed the appeal of the assessee. The relevant findings of the CIT(A) reads as follows:

“2.3 The submissions of the appellant and the facts have been carefully considered. The appellant has stated that the cash deposited in his bank account was out of his agricultural income. He has pointed out that he has regularly been showing the following agricultural income in his income tax returns:

<i>A.Y.</i>	<i>Rs.</i>
<i>08-09</i>	<i>10,25,000</i>
<i>07-08</i>	<i>9,80,000</i>
<i>06-07</i>	<i>8,85,000</i>
<i>05-06</i>	<i>7,15,000</i>
<i>04-05</i>	<i>7,00,000</i>
<i>03-04</i>	<i>7,10,000</i>

The appellant argued that these returns had been accepted by the Department. The appellant filed a copy of these returns and stated that this was not additional evidence as it was as per the departmental records and should have been considered by the A.O. The appellant also filed a copy of the khasra girdavri and stated that. The appellant has stated that the agricultural income was deposited in his bank account and was not used elsewhere. In his return, the appellant has shown

agricultural income of Rs. 10,25,000/- in A.Y 08-09 and Rs. 9,80,000/- in the preceding year. He has shown agricultural income in earlier years also. The A.O has not brought any material on record to controvert the appellant's claim that the cash deposited in the bank account was out of his agricultural income. In view of these facts, the appellant has clearly discharged his burden of proving the source of deposit in the bank account. The addition made is not justified and is deleted. The Ground is allowed."

5. The Revenue being aggrieved is an appeal before us. The ld. DR submitted that no detail of agricultural income was filed before the Assessing Officer and therefore, the A.O has correctly added the agricultural income as income taxable u/s 68 of the Act. None was present on behalf of the assessee.

6. We have heard the ld. DR and perused the material on record. Admittedly, assessee in the past Assessment Year's had disclosed substantially agricultural income. The details of which are as under:

A.Y.	Rs.
08-09	10,25,000
07-08	9,80,000
06-07	8,85,000
05-06	7,15,000
04-05	7,00,000
03-04	7,10,000

6.1. Return filed by the assessee for the above Assessment Year's has been accepted by the department. For the immediately two preceding assessment year's, namely, assessment years 2008-09 and 2007-08 substantially agricultural income of Rs. 10,25,000/- and Rs. 9,80,000/-

was disclosed by the assessee and same as stated earlier was accepted by the department. In the current A.Y, same agricultural income was disclosed to that of the agricultural income declared in the A.Y 2008-09. Therefore, we are of the view the agricultural income disclosed by the assessee in the current year is reasonable and justified and same cannot be added back to the total income by invoking provisions of sec. 68 of the Act. It is order accordingly.

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

Order pronounced in the open Court on 18/7/2014

Sd/-
(J. S. Reddy)
ACCOUNTANT MEMBER

Dated: 18/7/2014

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(George George K.)
JUDICIAL MEMBER

ASSISTANT REGISTRAR