

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER**
(Conducted through Virtual Court)

**ITA No.9/Ind/2022
Assessment Year: 2017-18**

Shri Madhusudan Dhakad Harda	Vs.	ITO-1, Harda
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: BDIPD9865J		
Assessee by	Shri Milind Wadhvani, AR	
Revenue by	Shri Harshit Bari, Sr. DR	
Date of Hearing	15.06.2022	
Date of Pronouncement	28.06.2022	

O R D E R

Per B.M. Biyani, A.M.:

1. This appeal filed by the assessee is directed against the order dated 25.11.2021 of learned Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre [**Ld. CIT(A)**], which in turn arises out of the order of assessment dated 17.12.2019 passed by the learned ITO-1, Harda [**Ld. AO**] u/s 144 of the Income-tax Act, 1961 [**the Act**] for the Assessment-Year 2017-18.

2. The assessee has raised following grounds:

“1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in upholding the action of the Ld. AO in making an addition to the income of assessee on account of unexplained cash deposit to the tune of Rs. 9,42,063/-

2. On the facts and in the circumstances of the case and in

law, the ld. CIT(A) erred in upholding the action of the Ld. AO in treating agricultural income as unexplained cash deposit.

3. The appellant craves leave to add to, alter, amend, vary or delete all or any of the above grounds of appeal.”

3. The assessee is an individual earning income from agricultural. The revenue received an information that the assessee has made cash deposits of Rs. 15,06,678/- in bank accounts during the period of demonetization. Therefore, notice u/s 142(1) was issued requiring the assessee to file return. In response, the assessee did not file return. Thereafter, the revenue issued repeat notices u/s 142(1) requiring the assessee to explain the sources of cash-deposits. In response, the assessee submitted that the only source of income available to him is the agricultural income, out of which the said deposits have been made. The assessee also submitted documentary evidences in the form of Bills and Vouchers, documents of holding of agricultural lands, KCC loan statement, Certificate from State Government appreciating very high agricultural income earned by the assessee, etc. to justify agricultural income. However, Ld. AO found that the assessee had made total cash-deposits of Rs. 33,91,841/- in different bank accounts during the whole year but the assessee could produce Bills/Vouchers in support of agricultural income to the extent of Rs. 24,49,778/- only. Therefore, the Ld. AO considered the remaining sum of Rs. 9,42,063/- as unexplained deposit in the bank accounts and completed assessment at total income of Rs. 9,42,063/- after making addition u/s 69A. Being aggrieved, the assessee filed appeal to Ld. CIT(A).

4. During faceless appellate proceeding, Ld. CIT(A) issued notices dated 22.01.2021 and 14.10.2021 to the assessee but the assessee did not make any submission. Therefore, the Ld. CIT(A) passed order of appeal on the basis of the material held on record. Ld. CIT(A) agreed that the Ld. AO has rightly made addition of Rs. 9,42,063/- because the assessee could not produce evidences. This way, the Ld. CIT(A) confirmed the action of Ld. AO.

5. Before us, the Ld. AR opened his arguments with a humble submission that the assessee is a pure agriculturist and neither well-versed with the laws of income-tax nor with procedures and systems. Ld. AR also submitted that the assessee did not have benefit of any counsel or consultant and all reply-letters submitted to Ld. AO during assessment-proceeding, as placed in the Paper-Book at Page No. 12 to 15, 51, 66 etc., are in Hindi and signed by the assessee. Ld. AR further submitted that the scrutiny started with cash-deposits of Rs. 15,06,678/- made in the demonetization-period and in order to justify those deposits, the assessee submitted documents of agricultural income. But the scrutiny ended with the overall deposits of Rs. 33,91,841/- made during the whole previous year in bank-accounts. Ld. AR submitted that for the deposits of Rs. 33,91,841/- made during the whole year, the assessee had not only the agricultural income but also the cash-withdrawals made from those very bank accounts which too were re-deposited in those bank accounts.

6. Regarding agricultural income, Ld. AR submitted that the assessee and his family are having a total 99.195 acres of agricultural land, out of which 40.90 acre of agricultural land is owned directly by assessee himself. Ld. AR submitted that all lands are fully irrigated and fertile. Ld. AR further submitted that the assessee is aged 57 years and his full time occupation is agricultural activities and nothing else. Ld. AR carried our attention to Page No. 13 to 50 of the Paper-Book to show that the assessee has submitted complete details of agricultural lands along with title-documents to Ld. AO during the course of assessment proceeding. Ld. AR further submitted that the assessee is a renowned agriculturist and has received several certificates and awards from the Govt. and his efforts of modern and high agriculture have been recognised in media, which is very much clear from the following documents:

- i. Certificate dated 16.05.2013 from M.P. Government for achieving highest per acre yield of certain crops (Paper-Book Page No. 67 & 68).

- ii. Certificate from Shri Narendra Modi, then Chief Minister of Gujarat, for participation in Global Agriculture Summit-2013 organized by Gujarat Government (Paper-Book Page No. 69).
- iii. News items published in NEWS-18, TV-9, NDTV, newspapers and magazines relating to interviews of assessee by the Agricultural Minister and Other media persons (Paper-Book Page No. 70 to 74).
- iv. Photographs of the training-sessions in which assessee has shared his knowledge on agriculture techniques with other farmers (Paper-Book Page No. 75 to 78).

Ld. AR submitted that the assessee is giving full time, focused efforts to agricultural activity only and there is no other source of income available to the assessee. Ld. AR further submitted that the assessee has already provided Bills / Vouchers of agricultural income of Rs. 24,49,148/- to Ld. AO and it is practically not possible to maintain documents of 100% agricultural produce because the assessee is selling a part of crop directly to the consumers. Ld. AR submitted that this fact was brought to the notice of Ld. AO during assessment-proceeding too, which is very much evident from Para No. 4 of the affidavit dated 24.09.2019 filed by assessee to Ld. AO, placed at age No. 12 of the Paper-Book, in which the assessee has averred as under:

“यह कि, मैं मुख्यरूप से खेती किसानी यानी कृषि का कार्य करता हूँ, इस कार्य का मैंने कोई हिसाब-किताब नहीं रखा है। मेरे द्वारा जो समय-समय पर सब्जी, कृषि उपज आदि बेची जाती है, उनकी बिक्री की राशि में नगद में भी मिलती एवं बैंक में भी जमा होती है। मेरे सभी बैंक खातों में एवं किसी-किसी खातों से जो भी राशि निकाली जाती है या जमा की जाती वह राशि कृषि कार्यो के हेतु समय-समय पर निकाली जाती है एवं एक खाते से दूसरे खाते में ट्रांसफर होकर भी जमा होती है। “

Ld. AR submitted that the agricultural sector in our country is not fully organized. It is a known fact that the agriculturists are selling part of their crop to the established dealers and part of their crop directly to consumers. This fact is very much accepted by **Hon'ble ITAT, Chennai in Smt. Annakkalanjiam Mathivanan ITA No. 2451/Chny/2018 order dated 22.01.2019:**

“5. The Assessing Officer as well as the CIT(Appeals) have to appreciate the fact that the agricultural products in this country are traded in unorganized sector. The workforce in the agricultural sector is unorganized. When the agricultural products are traded in unorganized sector in the country, expecting the assessee to produce bills for sale of agricultural produce is something which cannot be produced by the assessee. Moreover, when the assessee engages labourers in carrying out agricultural operation and incur expenditure, producing vouchers is something uncalled for. What is to be seen is that whether the assessee has cultivated the land as claimed. When the assessee claims that the land was cultivated with certain crops and when the Assessing Officer has taken up the assessment for examination after three or four years from the relevant financial year, no material evidence will be available on the land to show that the assessee has cultivated as claimed. The only evidence available is the record maintained by the State Government in its Revenue Department. As per the Revenue Board’s standing orders of Government of Tamil Nadu, the Village Administrative Officer in his official duty has to go round the village and take stock of the cultivation made at the relevant field and it has to be recorded in Village Account No.2. The Village Account No. 2 is otherwise known as adangal. Therefore, the only official document maintained in the course of administration is the adangal extract maintained by the Village Administrative Officer. Beyond this, the assessee cannot produce any evidence for establishing the cultivation.”

Ld. AR submitted that against the cash-deposits of Rs. 33,91,841/-, the assessee has already submitted the Bills / Vouchers of Rs. 24,49,148/- which is about 72% and the difference is 28% only. Ld. AR submitted that the assessee’s explanation that he could not maintain Bills / Voucher for sale of a part of the crop made directly to consumers, is a reasonable explanation and it must be accepted holistically having regard to the fact that the assessee is a renowned agriculturist who has received so many certificates, awards and appreciation from Govt. for his dedicated engagement in agricultural activities.

7. Regarding re-deposit of cash-withdrawals made from the same bank accounts, Ld. AR invited our attention to the “date-wise details of cash-withdrawals” on Page No. 8 and 9 of his “Written-Synopsis” and also to the highlighted entries of those cash-withdrawals in the Bank-Statements

placed at Page No. 53 to 61 of the Paper-Book. Ld. AR submitted that the assessee had made a total cash-withdrawal of Rs. 33,86,980/- from his bank accounts during the year and a part of those withdrawals was also re-deposited in those bank accounts. Analysing the details of cash-withdrawals and cash-deposits, Ld. AR submitted that the assessee has made cash-withdrawals on various dates and cash-deposits too on various dates during the year and the pattern of withdrawals and deposits supports the assessee's submission. At that stage, the Bench raised a query to Ld. AR as to why this point was not submitted to Ld. AO and why no submission was made to Ld. CIT(A) in appellate proceeding. In response the Ld. AR reiterated his earlier submission that the assessee is a pure agriculturist; he is neither well-versed with the laws of income-tax nor with procedures and systems; he does not have benefit of any counsel or consultant and all reply-letters submitted to Ld. AO during assessment-proceeding are in Hindi and submitted by the assessee. Hence the assessee made an overall general submission that all deposits were made out of agricultural income and this explanation is *bona fide* too because over the years the assessee has been doing only agricultural activity and nothing else.

8. Lastly the Ld. AR stressed that the assessee is a full time agriculturist as is evident from several certificates and awards received and news items published in the media. Ld. AR submitted that the assessee does not have any income except agricultural income. Ld. AR submitted that when there is no source of income except agricultural income, it is but natural that the assessee has made cash-deposits in the bank account out of agricultural income only. According to Ld. AR, agricultural income is non-taxable and hence there cannot be any addition on account of taxable income u/s 69A. Ld. AR relied upon the decision of **Indore Bench in ITO Vs. Smt. Shahnaj Bano, ITA No. 443/Ind/04 order dated 07.01.2005** and claimed it to be directly applicable to the assessee:

“8. As regards investment in flat, the AO has not brought on record any source of income except the income from agriculture claimed by the assessee. If a person has only agricultural income and no other income, then no addition can be made to the total income unless and until the AO proves that the assessee has any other source of income which is taxable under the Income-tax Act. The AO has not brought on record any material or evidence to show that the assessee was having any other source of income except agricultural income which is not taxable. CIT(A) was, therefore, justified in deleting the addition of Rs. 3,45,356/- to the total income made by the AO because the assessee has no income taxable and agricultural income is not taxable.”

9. With aforesaid submissions, the Ld. AR argued that the cash-deposits of Rs. 33,91,841/- stand well-explained by the agricultural income earned by the assessee as well as cash-withdrawals made from the banks. Therefore, the addition of Rs. 9,42,063/- made by Ld. AO u/s 69A deserves to be deleted.

10. Per contra, the Ld. DR supported the orders of lower authorities. Ld. DR submitted that the assessee has given supportive evidences of agricultural income to the extent of Rs. Rs. 24,49,148/- only as against the cash-deposits of Rs. 33,91,841/- and hence the difference of Rs. 9,42,063/- is unexplained. Therefore, according to Ld. DR, the lower authorities have rightly made / confirmed addition of Rs. 9,42,063/-. Regarding re-deposit of cash-withdrawals made from the bank, Ld. DR did not oppose the submission of assessee.

11. We have considered rival submission of both sides, perused the material held on record and considered the legal precedents cited before us. At the outset we observe that the Ld. AO has not made addition of Rs. 9,42,063/- on account of unproved agricultural income, the addition is on account of unexplained cash-deposits in the bank accounts. Therefore we have to see whether the assessee had sufficient sources to prove cash-deposits made in the bank accounts or not. In this regard, firstly we observe that the assessee is a renowned and dedicated agriculturist. On perusal of various evidences placed by Ld. AR, we find that the assessee

has received so much of recognition, awards and certificates from the Government or Governmental authorities in appreciation of agricultural activities done by him. We also observe that the assessee has submitted Bills / Vouchers to the tune of Rs. 24,49,148/- and also submitted he had made sale of crops directly to ultimate consumers for which the evidences could not be maintained. We find much weightage in the submission of assessee. This submission of assessee finds direct support from **Smt. Annakkalanjiam Mathivanan ITA No. 2451/Chny/2018 (supra)**. Therefore, the assessee's submission deserves credence and acceptance. Secondly, we also observe that the assessee has made a total cash-withdrawals of Rs. 33,86,980/- from his bank accounts during the year from time to time and therefore moneys were available with the assessee for making cash-deposits. On perusal of the bank-statements placed in the paper-book, we observe that the cash-withdrawals and cash-deposits have been made on various dates during the year and the pattern is such that re-deposits out of cash-withdrawals is possible. Thirdly, we also find that the assessee is having agriculture as sole source of income and there is no other source of income brought on record by Ld. AO. Since agricultural income is fully exempt, the assessee does not have any taxable income and therefore the addition u/s 69A cannot be made as decided in **ITO Vs. Smt. Shahnaj Bano (supra)**.

12. In view of above discussion, we are of the considered opinion that the addition of Rs. 9,42,063/- made by Ld. AO u/s 69A is not sustainable. We, therefore, delete this addition.

13. In the result, this appeal of assessee is allowed.

Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on this 28.06. 2022.

Sd/-

(SUCHITRA KAMBLE)

Judicial Member

Indore,

Dated : 28th **June, 2022**

Sd/-

(B.M. BIYANI)

Accountant Member

Patel/ Sr. P.S.

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore

1.	Date of taking dictation	15.6.22
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	