

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

**ITA No.2943/PUN/2016
Assessment Year : 2013-14**

Shri Ravindra Dattu Jadhav,
House No. 313, Mate Lane,
Sambhaji Chowk, Adgaon,
Nashik – 422003

PAN : AGUPJ4996N

Appellant

V/s.

The Income Tax Officer,
Ward – 1(3), Nashik

Respondent

Assessee by : Shri M.K. Kulkarni
Revenue by : Shri S.P. Walimbe

Date of Hearing : 31-05-2022
Date of Pronouncement : 07-06-2022

ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the assessee against the order dated 28-10-2016 passed by the Commissioner of Income Tax (Appeals)-2, Nashik ['CIT(A)'] for assessment year 2013-14.

2. The assessee raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) is justified in confirming the addition of Rs.25,80,000/- ignoring the claim of agricultural income in the facts and circumstances of the case.

3. Heard both the parties and perused the material available on record. We note that the assessee is an individual engaged in the business of trading in land on very small scale, helping his father and mother who running a tea shop at Adgaon. The assessee also conducts agricultural activity on land taken on rent. The AO treated an amount of Rs.47,20,000/- found in the bank account of the assessee as undisclosed income. The assessee contended that the said amount deposited out of earlier withdrawals from bank accounts, agricultural income and represents the turnover of business. The CIT(A) observed that that the assessee could able to prove cash deposits with reasons but some extent not fully proved beyond doubt. Further, he also held that the deposits to an extent of Rs.21,40,000/- were explained in respect of deposits out of earlier withdrawals and advance received which was refunded later on. According to CIT(A) the balance deposit of Rs.25,80,000/- (Rs.47,20,000/- - Rs.21,40,000/-), it was claimed consists of gross agricultural income and turnover on account of advances received from customers in land transactions. We note that the CIT(A) observed that advances received from customers and refunded before the year end and was of the opinion that the assessee could not substantiate that he is into agricultural activity or a contract farmer. The net agricultural income of Rs.28 lakhs is not possible in view of possession of agricultural land in 52R which is not sufficient. It is also noted the sale bills of agricultural produce were furnished before the AO but however the AO held the bills obtained from merchant who is non-existent. There is no dispute with regard to possession of agricultural land whether it is own or on rent by the assessee and the balance amount out of the addition made by the AO u/s. 68 are out of gross agricultural income or turnover on account of land transactions activity. The assessee also furnished bills substantiating production of agricultural produce. Therefore, the CIT(A) ought to have

considered the agricultural activity. It is also noted it was claimed by the assessee that the advances received from customers were refunded before year end but we find no such verification done by both the authorities below to confirm whether such advances were refunded or not. The Id. AR also did not bring on record anything to show that the advances from customers refunded before year end either before the CIT(A) nor before us. Therefore, we deem it proper to restrict the addition to an extent of Rs.12,90,000/- being 50% of Rs.25,80,000/- on account of non furnishing of requisite details regarding the refund made to customers on account of advances received on land transactions. Thus, the order of CIT(A) is modified as indicated above accordingly and grounds raised by the assessee are partly allowed.

4. In the result, the appeal of assessee is partly allowed.

Order pronounced in the open court on 07th June, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

Pune; Dated : 07th June, 2022.

Copy of the Order forwarded to :

1. The Appellant.
 2. The Respondent.
 3. The CIT(A)-2, Nashik
 4. The Pr. CIT-1, Nashik
 5. DR, ITAT, "A" Bench, Pune.
 6. Guard File.
- True Copy BY ORDER,

Sr. Private Secretary
ITAT, Pune