

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “A” : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 953/HYD/2018

Assessment Year: 2009-10

Gutta Narasimha Reddy, Ramannapet [PAN: ARDPG6155C]	Vs	The Income Tax Officer, Ward-1, Suryapet
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(Appellant)

(Respondent)

For Assessee : NONE

For Revenue : Shri Sunil Kumar Pandey, DR

Date of Hearing : 17-05-2021

Date of Pronouncement : 01-07-2021

ORDER

PER S.S.GODARA, J.M. :

This assessee's appeal for AY.2009-10 arises from the CIT(A)-3, Hyderabad's order dated 19-01-2018 passed in case No.0441/ITO-W-1/SYP/CIT(A)-3/2016-17, in proceedings u/s.143(3) r.w.s.147 of the Income Tax Act, 1961 [in short, 'the Act'].

None appeared at assessee's behest. Case file perused.

2. It transpires at the outset that this assessee's instant appeal suffers from 19 days delay stated to be attributable to the reason(s) beyond his control as per condonation petition/affidavit. No rebuttal has come from the departmental side. The impugned delay is condoned therefore.

3. The assessee has pleaded the following substantive grounds in the instant appeal:




“2. On the facts and in the circumstances of the case, the learned Commissioner of Income Tax (Appeals), erred in upholding the addition of Rs.24,17,633/- made by the Assessing Officer.

3. The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the assessee furnished evidence in support of the agricultural land holdings and income there from in support of the sources for availability of money towards expenditure incurred on assessee's share of consideration paid at the time of execution of agreement cum GPA on 15-12-2008 and accordingly the learned C.I.T(Appeals) ought not to have summarily rejected the evidence and explanations offered by the assessee.

4. The learned Commissioner of Income Tax (Appeals) ought to have appreciated that the Assessing Officer completed the assessment without affording adequate opportunity to the assessee for furnishing explanations and evidences in support of the sources towards assessee's share of consideration paid at the time of execution of agreement cum GPA on 15-12-2008 and even without considering the deduction claimed u/s.80C and accordingly the learned C.I.T(Appeals) ought not to have summarily rejected the evidence and explanations offered by the assessee”.


4. The CIT(A)'s detailed discussion affirming the Assessing Officer's action making the impugned addition reads as under:

“VIII) Ground Nos.2 and 4 relates to agricultural income and their sources. The facts of the case, grounds of appeal, assessment order and submissions of the appellant were perused. It is seen from the submission filed in appeal that an agricultural income certificates of the Revenue Department, Government of Telangana were furnished. Scanned certificate of one such agricultural income certificate is below:

TSMSAA 22189322

**GOVERNMENT OF TELANGANA
REVENUE DEPARTMENT**

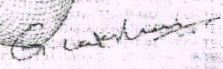
Application No

 AIC021700055906
 Date : 03/06/2017

AGRICULTURE INCOME CERTIFICATE

This is to certify that Sri/Srimathi/Kumari GUTTA PULAMMA S/o / D/o / W/o NARRA LINGAREDDY is Resident of Nidhanapalle village has possessed the following lands in Nidhanapalle villages of Ramannapet Mandal as detailed below:

Name of the Pattadar	Sr. No	Extent	TPB/TD/Doc.No	Income
GUTTA PULAMMA	3	4.08	314860	20000.00
GUTTA PULAMMA	5	1.35	314860	10000.00
GUTTA PULAMMA	4	1.08	314860	2000.00
GUTTA PULAMMA	213	1.11	314860	3000.00
GUTTA PULAMMA	212	0.05	314860	440.00

After due enquiry, annual income derived from the above agricultural lands is Rs. 354400/- (Rupees THREE LAC FIFTY FOUR THOUSAND FOUR HUNDRED ONLY).

Certified By

 Name : G.Laxmi
 Designation : TAHSILDAR
 Mandal : Ramannapet

This certificate is not valid for any civil , criminal cases and any other purposes, except to obtain Bank Loan subject to Rules and Regulations of the Bank.

6/3/17, 12:34

MEE SEVA

It is clearly stated at the bottom of the certificate as follows:

“This certificate is not valid for any civil, criminal cases and any other purpose except to obtain bank loan subject to rules and regulations of the bank.”

Hence, these agricultural income certificates were only for the purpose of bank loans and not valid for any civil proceedings or

criminal proceedings. Therefore, these certificates do not carry merit in Direct Tax proceedings which are civil proceedings.

From the assessment order and also from the details, it is apparent that the appellant did not have that amount of agricultural income to be in the possession of a substantial amount of money. The AO in his order has brought out the details. The explanations offered in appeal are clearly in the nature of an after-thought. The agricultural land holdings and the appellant return incomes do not provide for such large amount of cash which was with the appellant. Further, the appellant has not shown the proof of what crop was grown on the agricultural land. Further, the lands are not in the name of the appellant, No proof was produced for personal savings. In the agricultural income certificates which have been mentioned supra, it is clear that these are not for any purpose, except to obtain bank loan subject to rules and regulations of the relevant bank. With reference to the judicial decisions relied upon by the appellant they should be viewed with reference to the factual matrix from case to case. The judicial decisions relied upon by the appellant and the factual matrix of this case are different and hence distinguishable. Keeping in view the facts, issue and circumstances of the instant case, Ground Nos.2 and 4 In appeal are dismissed.

VII) Ground Nos.3, relates to providing of opportunity.

It is pertinent to note that procedural/technical matters do not matter as' much as substantive provisions of the law. Hence, the provision of Section 292B which is extracted below is relevant. Section 292B states as follows:

“No return of income, assessment, notice, summons or other proceeding, furnished or made or issued or taken or purported to have been furnished or made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceedings if such return of income, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act”.

As can be seen from plain reading of Section 292B, it is clear that an action taken in pursuance of any of the provisions of the Income Tax Act shall be valid. Merely any mistake, reason, defect or omission in such an assessment, income or any proceedings under the Act shall not be held invalid due to any such mistake or defect or reason or omission. The provisions of Section 292B are clear and the legislative intent is manifested in the language of the said Section of the Income Tax Act. After due consideration of the issue, it is seen that even if there is some technical or procedural omission a proceeding under the

Income Tax Act cannot be held as invalid. Hence, Ground no.3 in appeal pressed by the appellant is dismissed”.

5. It is clear from the perusal of the case records that the assessee has not been able to prove ownership of the agricultural lands *per se* which could give rise to the income of Rs.24,17,633/- claimed as exempt u/s. 10(1) of the Act. No rebuttal has come from the assessee's side in the case file. We thus confirm both the lower authorities' action making the impugned disallowance.

6. This assessee's appeal is dismissed in above terms.

Order pronounced in the open court on 1st July, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 01-07-2021

TNMM

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

Copy to :

*1.Gutta Narasimha Reddy, H.No.8-101, Ramannapet
(V & M), Telangana State.*

2.The Income Tax Officer, Ward-1, Suryapet.

3.CIT(Appeals)-3, Hyderabad.

4.Pr.CIT-3, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.