

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 4528/MUM/2025

(Assessment Year :2016-17)

Santush Pandurang Mane

5G/502, Lalbaugcha Raja CHS Ltd.

Shree Ganesh Nagar, Lalbaug,

Mumbai- 400012

PAN: AAEPM4509L

..... Appellant

v/s

ACIT/DCIT Circle, 8(3)(1) Present Jurisdiction

Aayakar Bhavan, M.K. Road,

Mumbai- 400 020

..... Respondent

Assessee by : Shri Fenil Bhat

Revenue by : Shri Virabhadra Mahajan, Sr. DR

Date of Hearing – 04/02/2026

Date of Order - 13/02/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 19/05/2025, passed under section 250 of the Income Tax Act, 1961 ("the Act") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, ["learned CIT(A)"], for the assessment year 2016-17.

2. In this appeal, the assessee has raised the following grounds: -

" a) On the facts and in the circumstances of the case and in law the Learned CIT(A) erred in upholding the addition made by the Assessing Officer, of Rs.78,70,208/- as unexplained cash credit u/s 68 of the Income Tax Act, 1961.

b) On the facts and in the circumstances of the case and in law the Learned CIT(A) erred in upholding the addition made by the Assessing Officer of Rs.30,01,000/- being cash deposit u/s 68 of the Income Tax Act, 1961.

c) On the facts and in the circumstances of the case and in law the Learned CIT(A) erred in upholding the disallowance made by the Assessing Officer, on account of deduction U/s. 80C of Rs.1,50,000/- under chapter VIA of the IT Act, 1961.

d) The appellant craves leave to add, amend, alter or modify the grounds of Appeal at or before the hearing of the Appeal. "

3. Ground No. 1, raised in assessee's appeal, pertains to the addition on account of agricultural income declared by the assessee.

4. The brief facts of the case pertaining to this issue, as emanating from the record, are: The assessee is an individual. For the year under consideration, the assessee filed his return of income on 31/12/2016, declaring a total income of Rs.5,46,900. The return filed by the assessee was selected for scrutiny through CASS, and statutory notices under section 143(2) and section 142(1) of the Act were issued and served on the assessee. During the assessment proceedings, from the perusal of the return of income filed by the assessee, it was observed that the assessee has shown net agricultural income of Rs.78,70,208, which was offered for taxation for rate purpose and claimed as exempt income. In order to verify the claim of the assessee, the assessee was asked to submit relevant details and to produce original bills/vouchers relating to agricultural income for examination. The assessee was also asked to produce documents in support of agricultural income, details of the nature as well as the source of the cash

deposits in Banks (Janta Sahkari Bank and Union Bank of India), statement of assets and liabilities of the partnership firm. In response, the assessee uploaded the copy of 7/12 extract in respect of the agricultural land owned at the village "Aasage Lanza" a Ratnagiri issued by Talati on 08/11/2013. The assessee did not furnish fresh 7/12 extract relevant for the year under consideration. The assessee also submitted a copy of Letter of Intent issued by National Horticultural Board on 03/08/2007. From the 7/12 extract issued on 08/11/2013, it was observed that the assessee was having 4.98 Hectares of agricultural land at the village "Aasage Lanza", out of which 0.15 Hectares were not at all fit for agriculture. As the 7/12 extract furnished by the assessee was not pertaining to the year under consideration and was not proving the assessee is in agricultural activity as claimed, keeping in mind the principles of natural justice, the assessee was again requested vide show cause notice to establish the claim of agricultural income of Rs.78,70,208, failing which the same will be treated as cash credit under section 68 of the Act. In response, the assessee neither submitted the details of the sale bill, purchase bills/vouchers, nor the details of expenses incurred in respect of the labour work carried out in the field to produce the crop/agricultural produce. Further, the Letter of Intent issued by the National Horticultural Board also pertain to the financial year 2007-08, and the same did not prove that the assessee conducted any agricultural activity during the year under consideration. It was further noticed from the assessee's application letter dated 13/06/2007 submitted before the National Horticultural Board that the assessee proposed to cultivate 2700 Acres of land. However, the assessee was not able to submit any documents to support his claim of land. On the

contrary, as per the Government Data, only 900 Acre (approximately) of land is available in the entire Ratnagiri region for agriculture.

5. Accordingly, the Assessing Officer ("AO") vide order dated 24/12/2018 passed under section 143(3) of the Act, disagreed with the submissions of the assessee and held that the assessee's claim is totally wrong and unacceptable as the assessee did not prove that he incurred any expenses for irrigation. The AO further noted that the documents submitted by the assessee are the same documents submitted during the assessment proceedings for the assessment year 2014-15, where a similar claim of agricultural income was rejected. The AO also noted that the assessee is running his business from Mumbai and the agricultural land is situated at Ratnagiri, which also proves that the assessee did not have dedicated time for agricultural activity, as the assessee was involved in business activity during the year and has offered business income also during the year from his proprietary firm, M/s Balleashwar Enterprises. Accordingly, the AO held that the details furnished by the assessee did not certify that he has earned agricultural income during the year under consideration. The AO emphasised on the aspect that the documents furnished by the assessee pertain to the earlier years and no document for the year under consideration was submitted by the assessee despite sufficient opportunity. As the assessee also could not produce the complete evidence, such as bills/vouchers for the agricultural income, the AO held that the assessee failed to explain/establish the source and nature of the total agricultural income amounting to Rs.78,70,208 declared by the assessee and credited in the books of account.

Accordingly, the said amount was treated as unexplained cash credit under section 68 of the Act and added to the total income of the assessee.

6. The learned CIT(A), vide impugned order, dismissed the ground raised by the assessee on this issue, and held that the assessee failed to produce contemporaneous evidence such as sale bills, purchase of seeds, labour payment records or 7/12 extract for the year under consideration. It was further held that the documents submitted by the assessee did not pertain to the year under consideration and therefore cannot be the basis to prove the agricultural activity for the relevant year. The learned CIT(A) reiterated the AO's findings that the assessee's business activities are in Mumbai and that there is no evidence of dedicated time for agriculture in Ratnagiri. Thus, the learned CIT(A) held that the assessee has not provided any concrete documentary evidence to substantiate the agricultural income claimed during the year under consideration. Accordingly, the addition made by the AO under section 68 of the Act was upheld by the learned CIT(A). Being aggrieved, the assessee is in appeal before us.

7. During the hearing, the learned Authorised Representative ("*learned AR*") reiterated the submissions made by the assessee before the lower authorities and submitted that the assessee is an agriculturist and grows cashew, mango and flowers in 4.98 Hectares of land in District Ratnagiri. The learned AR submitted that during the assessment proceedings, the assessee could not produce the bills/vouchers for agricultural income, as he is not required to maintain books of account and such details were not readily available with him. The learned AR, by referring to the compilation of

documents filed before us, submitted that the bills for the sale of agricultural products and the details of cash received on such sales are now available with the assessee and form part of the paper book from pages 108-191. In this regard, the learned AR drew attention to the application for admission of additional evidence filed by the assessee in support of the aforesaid documents, which have been placed on record. The application for admission of additional evidence filed by the assessee is reproduced as follows for ready reference: –

"Sub: Application for admission of Additional Evidence.

In connection with the above-mentioned Appeal filed by Appellant above, in support of the appeal the Appellant is filing additional evidence forming part at Pg. No.108 to 191 of Factual Paper Book in the form of following evidence:

- *Details of cash received on sale of agricultural products*
- *Summary of cash deposits out of cash received on sale of agricultural products and highlighting the same deposits with the banks*
- *Copy of bills for sale of agricultural products*

The Appellant submits that the Appellant, being an agriculturist, did not maintain books of accounts, and evidence was not readily available. The agricultural land is situated in Ratnagiri, and all the evidence pertaining to agricultural activity was warehoused in Ratnagiri. After receiving professional advice from Counsel, during the course of the conference with the Counsel, that further evidence was required to be placed before the Hon'ble Tribunal in support of the appeal and to rebut the allegations of the lower authorities effectively. Thereafter, efforts were made to recover the documents.

The admission of additional evidence is crucial for deciding the appeal and, therefore, the same be admitted.

In view of the above, the Assessee requests your Honours to admit the additional evidence and consider the same while deciding the appeal."

8. Accordingly, the learned AR prayed that these additional evidences, which could not be produced before the lower authorities, be admitted for the adjudication of the issue at hand.

9. On the other hand, the learned Departmental Representative ("*learned DR*") vehemently objected to the prayer of the assessee for seeking the admission of additional evidence which are placed on record. The learned DR submitted that ample opportunities were granted to the assessee to produce the bills/vouchers to support the contention that the assessee earned agricultural income during the year under consideration. However, despite sufficient opportunity being granted to the assessee by the AO, the assessee only furnished the documents which did not pertain to the year under consideration. Therefore, the learned DR submitted that, under these circumstances, the impugned addition has been correctly made, and the documents filed by the assessee, along with an application seeking admission of additional evidence, after a delay of 7 years, should be rejected.

10. We have considered the submissions of both sides and perused the material available on record. In the present case, the assessee declared agriculture income of Rs.78,70,208, which was claimed as exempt. Accordingly, during the assessment proceedings, the assessee was asked to submit the details and produce the bills/vouchers, etc., in support of this claim of earning agricultural income. It is evident from the record that during the assessment proceedings, the assessee was granted multiple opportunities to produce the aforesaid documents. However, the assessee only uploaded the 7/12 extract issued on 08/11/2013 and the Letter of Intent issued by the National Horticulture Board dated 03/08/2007, in support of its claim that it was having 4.98 Hectares of agricultural land in

District Ratnagiri, which was used for agricultural produce. It is undisputed that no sale bills, purchase bills/vouchers, or details of expenditure incurred in respect of labour work carried out in the field for agricultural produce were submitted by the assessee. Since the documents placed on record by the assessee did not pertain to the year under consideration, the AO as well as the learned CIT(A) disagreed with the submissions of the assessee and treated the entire credit of Rs.78,70,208, declared as agricultural income, to be an unexplained cash credit under section 68 of the Act. In this regard, the lower authorities also doubted the contention of the assessee that he has 2700 Acres of land for agricultural activity, since, as per the Government Data, only 900 Acres (approximately) of land is available in the entire Ratnagiri region for agriculture.

11. In the appeal before us, for the first time, the assessee has placed on record the details of cash received on sale of agricultural products, a summary of cash deposits out of cash received on sale of agricultural products, and a copy of the bills for sale of agricultural products. As per the assessee, since he is a agriculturist, therefore not required to maintain the books of accounts. Thus, all these evidences were not readily available with him and the same were in his warehouse in Ratnagiri. Further, it is the plea of the assessee that only after receiving the professional advice, during the pendency of the present appeal, efforts were made to recover these documents to rebut the findings of the lower authorities.

12. On the contrary, the learned DR vehemently objected to the admission of these documents as additional evidence on the basis that, despite

multiple opportunities, the assessee failed to produce these documents, and thus, after a delay of 7 years, these documents cannot be admitted.

13. Before proceeding further, it is relevant to note the provisions of Rule 29 of the Income Tax Appellate Tribunal Rules, 1963, which read as follows:-

"Production of additional evidence before the Tribunal.

29. The parties to the appeal shall not be entitled to produce additional evidence either oral or documentary before the Tribunal, but if the Tribunal requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or , if the income-tax authorities have decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by them or not specified by them, the Tribunal, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced."

14. While analysing the powers of the Tribunal to admit the additional evidence under Rule 29 of the ITAT Rules, 1963, the Hon'ble Delhi High Court in Commissioner of Income-tax-IV vs. Text Hundred India (P.) Ltd., reported in [2013] 351 ITR 57 (Delhi), observed as follows: -

"13. The aforesaid case law clearly lays down a neat principle of law that discretion lies with the Tribunal to admit additional evidence in the interest of justice once the Tribunal affirms the opinion that doing so would be necessary for proper adjudication of the matter. This can be done even when application is filed by one of the parties to the appeal and it need not to be a suo motu action of the Tribunal. The aforesaid rule is made enabling the Tribunal to admit the additional evidence in its discretion if the Tribunal holds the view that such additional evidence would be necessary to do substantial justice in the matter. It is well-settled that the procedure is handmade of justice and justice should not be allowed to be choked only because of some inadvertent error or omission on the part of one of the parties to lead evidence at the appropriate stage. Once it is found that the party intending to lead evidence before the Tribunal for the first time was prevented by sufficient cause to lead such an evidence and that this evidence would have material bearing on the issue which needs to be decided by the Tribunal and ends of justice demand admission of such an evidence, the Tribunal can pass an order to that effect.

14. The next question which arises for consideration is as to whether the exercise of discretion in the instant case permitting the additional evidence

by the Tribunal, is apposite? It is undisputed that rule 29 of the Rules is akin to Order 41 Rule 27(1) of the Code of Civil Procedure. The true test in this behalf, as laid down by the Courts, is whether the Appellate Court is able to pronounce judgment on the materials before it without taking into consideration the additional evidence sought to be adduced. The legitimate occasion, therefore, for exercise of discretion under this rule is not before the Appellate Court hears and examines the case before it, but arises when on examining the evidence as it stands, some inherent lacuna or defect becomes apparent to the Appellate Court coming in its way to pronounce judgment, the expression 'to enable it to pronounce judgment' can be invoked. Reference is not to pronounce any judgment or judgment in a particular way, but is to pronounce its judgment satisfactory to the mind of Court delivering it. The provision does not apply where with existing evidence on record the Appellate Court can pronounce a satisfactory judgment. It is also apparent that the requirement of the Court to enable it to pronounce judgment cannot refer to pronouncement of judgment in one way or the other but is only to the extent whether satisfactory pronouncement of judgment on the basis of material on record is possible. In Arjan Singh v. Kartar Singh AIR 1951 SC 193, while interpreting the provisions of Order 41 Rule 27, the court remarked as follows:—

*"The legitimate occasion for the application of Order 41, rule 27 is when on examining the evidence as it stands, some inherent lacuna or defect becomes apparent, not where a discovery is made, outside the court of fresh evidence and the application is made to impart it. The true test, therefore, is whether the Appellate Court is able to pronounce judgment on the materials before it without taking into consideration the additional evidence sought to be adduced."
[Emphasis supplied]*

[See also Netha Singh v. Financial Commissioner AIR 1976 SC 1053]"

15. Thus, the Hon'ble High Court held that the discretion lies with the Tribunal to admit the additional evidence, if doing so would be necessary for proper adjudication of the matter. Further, the Hon'ble High Court held that this can be done even when an application was filed by one of the parties to the appeal, and it need not be a *suo motu* action of the Tribunal. Thus, the Hon'ble High Court held that once it is found that the party intending to lead evidence was prevented by sufficient cause to lead such evidence and that the evidence has a material bearing on the issue involved, the Tribunal can admit such evidence under Rule 29 of the ITAT Rules, 1963.

16. In the present case, the issue is to determine the nature of the income, amounting to Rs.78,70,208, declared by the assessee. As per the assessee, the said income is in the nature of agricultural income earned by him by producing cashews, mango and flowers. On the other hand, since the assessee could not bring on record any evidence such as sale bills, purchase bills/vouchers, details of expenses incurred, the Revenue held that the assessee was not able to explain/establish the source and nature of the credit of Rs.78,70,208 in his books of accounts. Accordingly, the said amount was added to the total income of the assessee as unexplained cash credit under section 68 of the Act. Undoubtedly, the details sought by the Revenue are relevant for deciding the nature and source of cash credit in the books of the assessee. Further, we agree with the findings of the lower authorities that the documents as submitted by the assessee, such as 7/12 extract issued on 08/11/2013 and Letter of Intent issued by the National Horticulture Board dated 03/08/2007, do not support the case of the assessee, as none of these documents substantiate that the assessee earned income from agricultural produce during the year under consideration. Therefore, we are of the considered view that the details sought by the Revenue are necessary for proper adjudication of the issue involved.

17. As noted in the foregoing paragraphs, the assessee, by way of additional evidence, has furnished the details of cash received from the sale of agricultural products, a summary of cash deposits out of cash received on the sale of agricultural products, and a copy of the bills for the sale of

agricultural products. In order to support admission of these documents at this stage, it is the plea of the assessee that he is an agriculturist and, therefore, was not required to maintain the books of accounts. Thus, as per the assessee, all these details were not readily available to him when the proceedings were pending before the lower authorities. Having considered the submissions of both sides and perused the material available on record, we find substance in this plea of the assessee, and are of the considered view that there was sufficient cause which prevented the assessee from leading such evidence before the lower authorities. Further, since the details as submitted by the assessee before us are necessary for proper adjudication of the issue involved, we admit the additional evidence filed by the assessee. However, since these evidences were not examined by any of the lower authorities, we deem it appropriate to restore this issue to the file of the lower authorities for *de novo* adjudication, after thorough examination/verification of the details filed by the assessee before us. Since the determination of the nature of income as agricultural income requires detailed factual verification, we clarify that the AO shall be at liberty to obtain a field report regarding the details of agricultural produce by the assessee, as well as the details, such as the Mandi/store where such agricultural produce was sold by the assessee. Further, as this issue is restored to the file of the AO for consideration afresh, we direct the assessee to submit any other information/documents as may be sought by the AO for complete adjudication of the issue without any default. With the above directions, the impugned order on this issue is set aside, and Ground No.1, raised in the assessee's appeal, is allowed for statistical purposes.

18. Ground No. 2, raised in assessee's appeal, pertains to the addition on account of cash deposit under section 68 of the Act.

19. Having considered the submissions of both sides and perused the material available on record, we find that during the year under consideration, the assessee deposited cash amounting to Rs.30,01,000 in his bank accounts. As per the assessee, these cash deposits were made out of the income earned from the sale of agricultural produce. As the assessee could not furnish the necessary details in support of its submission, the AO made an addition of Rs.30,01,000 under section 68 of the Act, which was also upheld by the learned CIT(A). Since the issue regarding the income earned from agricultural produce has been restored to the file of the AO for *de novo* adjudication, we deem it appropriate to restore this issue as well to the file of the AO for consideration afresh. We order accordingly. As a result, the impugned order on this issue is set aside, and Ground No.2, raised in assessee's appeal, is allowed for statistical purposes.

20. Ground No. 3, raised in assessee's appeal, pertains to the disallowance of Rs.1,50,000 under section 80-C of the Act.

21. Having considered the submissions of both sides and perused the material available on record, we find that in his return of income, the assessee claimed a deduction of Rs.1,50,000 under section 80-C of the Act. In support of his claim, the assessee submitted that the same is in respect of LIC premiums paid by the assessee during the year under consideration. However, in the absence of any documentary evidence to support the claim

of the assessee, the AO disallowed the deduction claimed under section 80-C of the Act, which was also upheld by the learned CIT(A).

22. During the hearing, the learned AR reiterated the submissions made by the assessee before the lower authorities and submitted that the said claim is in respect of LIC premiums paid by the assessee. The learned AR further submitted that the said payment was made via the banking channel, and the bank statement shows that the payment was made for the premium. However, the learned AR could not bring on record any receipt issued by the LIC for the payment of premium. Therefore, due to the lack of necessary evidence, we do not find any infirmity in the findings of the lower authorities on this issue, and the same are upheld. As a result, Ground No. 3, raised in the assessee's appeal, is dismissed.

23. In the result, the appeal by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 13/02/2026

Sd/-
VIKRAM SINGH YADAV
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 13/02/2026

Disha Raut
Stenographer

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai.