

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCH ' A '**

**BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

I.T. A. No.98/Bang/2013  
(Assessment Year : 2007-08)

M/s. Mookambika Associates,  
No.14, Lakshmi Complex,  
3<sup>rd</sup> Cross, Journalist Colony,  
Bangalore.  
PAN ABUFS 3239F

.... Appellant.

Vs.

The Asst. Commissioner of Income Tax,  
Central Circle 2(1), Bangalore.

..... Respondent.

Appellant By : Shri C. Ramesh, C.A.

Respondent By : Shri G.R. Reddy, CIT-I (D.R)

Date of Hearing : 7.3.2016.

Date of Pronouncement : 24.03.2016.

**O R D E R**

**Per Shri Vijay Pal Rao, J.M. :**

This appeal by the assessee is directed against the order dt.21.12.2012  
of Commissioner of Income Tax (Appeals) for the Assessment Year 2007-  
08.

2. There was a search under Section 132 of the Income Tax Act, 1961 (in short 'the Act') in case of Mr. S. Chandrashekar group of companies on 6.1.2010. The assessee filed its return of income under Section 153A rws 153C of the Act declaring an income of Rs.1.56 Crores and admitted the tax liability of Rs.96,46,814. The assessment was completed for the Assessment Year 2007-08 at a total income of Rs.2.06 Crores and a tax liability of Rs.1,76,75,366. The assessee challenged the assessment before the CIT (Appeals) however, the CIT (Appeals) dismissed the appeal of the assessee on the ground that the assessee has not paid the self-assessment tax. The assessee then filed an appeal before the Tribunal which was dismissed by this Tribunal vide its order dt.5.11.2015 because of the reason that the assessee did not pay the self-assessment tax. The assessee carried the matter before the Hon'ble High Court by filing an appeal in ITA No.239/2015 and submitted that the assessee has subsequently paid the admitted tax amount along with interest vide challan dt.20.1.2015. Upon which the Hon'ble High Court has remitted the matter back to the tribunal in para 6 as under :-

*“6. In view of the aforesaid, as the admitted tax is now said to have been deposited, we remand the matter to the Tribunal to consider the appeal of the appellant afresh, after taking into account the amount of tax deposited on 20.01.2015, and giving a finding as to whether the amount of tax so deposited by the appellant is the total amount that was required to be deposited. The appeal shall then be heard on merits and in case if it is found to be the adequate amount of tax has been deposited by the assessee, then necessary directions shall be given by the Tribunal to the Appellate Commissioner to restore the appeal which had been filed before it, and the Appellate Commissioner shall then decide the same on merits, and in accordance with law.”*

Thus it is clear that now the assessee has paid the admitted self-assessment tax. Since the appeal of the assessee was dismissed by the CIT (Appeals) due to non-payment of self-assessment tax without going into the merits of the case, therefore, there is no finding by the CIT (Appeals) on the merits of the case. In view of the decision of the Hon'ble jurisdictional High Court as well as in the facts and circumstances of the case, we set aside this appeal to the record of the CIT (Appeals) for adjudication of the same on merits.

3. In the result, the appeal is allowed for statistical purpose.

Order pronounced in the open court on the 24<sup>th</sup> day of March, 2016.

Sd/-  
**(INTURI RAMA RAO)**  
Accountant Member

Sd/-  
**(VIJAY PAL RAO)**  
Judicial Member

Dated, the 24<sup>th</sup> March, 2016.

\*Reddy gp / DS /

Copy to :

1. Appellant
2. Respondent
3. C.I.T.
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard File.

By Order

Asst. Registrar, ITAT, Bangalore