

IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU BENCH 'B', BENGALURU

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER

AND

SHRI. S. JAYARAMAN, ACCOUNTANT MEMBER

I.T.A No.1265/Bang/2014
(Assessment Year : 2009-10)

Shri. B.V. Sampath,
No.16, 28th Cross, Geetha Colony,
Jayanagar, 4th Block,
Bengaluru
PAN : ASZPS5492G

.. Appellant

v.

Deputy Commissioner of Income Tax,
Central Circle – 2(3), Bengaluru

.. Respondent

Assessee by : None
Revenue by : Ms. Neera Malhotra, CIT-DR

Heard on : 02.02.2017
Pronounced on : 22.02.2017

ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER :

This appeal is preferred by the assessee against the order of the CIT (A)

inter alia on the following grounds :

1. The orders of authorities below in so far as they are against the appellant, are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned CIT[A] is not justified in dismissing the appeal in-limine holding that the appeal is not maintainable on account of non-payment of the tax on the returned income under the facts and in the circumstances of the appellant's case.

3. The learned CIT[A] is not justified in not disposing off the grounds raised by the appellant with regard to the addition of

Rs.1,00,00,000/- made by the learned DOT by overlooking the fact that the project had gone into disputes and hypothetically treating the amount of advance received by the appellant as no longer payable/refundable/non-refundable, which does not constitute income of the appellant under the facts and in the circumstances of the appellant's case.

4. Without prejudice to the right to seek waiver with the Honble CCIT/DG, the appellant denies himself liable to be charged to interest u/s 234-A, 234-B and 234-C of the Act, which under the facts and in the circumstances of the appellant's case and the levy deserves to be cancelled.

5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.

02. This appeal was listed for hearing on 02.02.2017, but none appeared on behalf of the assessee, despite service of the notice of hearing. Since the assessee did not appear, we have no option, but to hear the appeal ex parte, qua the assessee. Accordingly, the revenue was heard.

03. We have carefully examined the order of the CIT (Appeals) on the impugned grounds and we find that he has rightly adjudicated the issues in detail and we find no infirmity therein. Accordingly, we confirm the order of CIT (Appeals).

04. In the result, the appeal of assessee is dismissed.

Order pronounced in the open court on 22nd day of February, 2017.

Sd/-

Sd/-

(SUNIL KUMAR YADAV)
JUDICIAL MEMBER

(S. JAYARAMAN)
ACCOUNTANT MEMBER

MCN*

Copy to:

1. The assessee
2. The Assessing Officer
3. The Commissioner of Income Tax
4. The Commissioner of Income Tax (A)
5. DR
6. GF, ITAT, Bangalore

By Order

Assistant Registrar