

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
AND SHRI JASON P. BOAZ, ACCOUNTANT MEMBER

ITA No.1331/Bang/2016
Assessment year : 2011-12

The Income Tax Officer, Ward 6(2)(2), Bengaluru.	Vs.	Smt. T.R. Beena, No.68, Main Villa, 1 st Stage, AGBC Layout, Mahalakshmpuram, Bengaluru – 560 086. PAN: ADMPR 9043H
APPELLANT		RESPONDENT

Appellant by	:	Shri P. Dinesha, Advocate
Respondent by	:	Shri B.R. Ramesh, Jt. CIT(DR)(ITAT), Bengaluru

Date of hearing	:	07.11.2017
Date of Pronouncement	:	10.11.2017

ORDER

Per Sunil Kumar Yadav, Judicial Member

This appeal is preferred by the revenue against the order of the
CIT(Appeals) *inter alia* on the following grounds:-

“1. The order of the CIT (Appeals) is opposed to law and the facts and circumstances of the case.

2. On the facts and in circumstances of the case, the learned CIT(A) erred in granting relief to the assessee by admitting additional evidence, without giving a specific opportunity of being heard to the AO, to rebut the same, which is in contravention of the provisions of Rule 46A(3).

3. For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the CIT(A), in so far as it relates to the above grounds may be reversed and that of the Assessing Officer be restored.

4. The appellant craves leave to add, to alter, to amend or delete any of the grounds that may be urged at the time of hearing of the appeal.”

2. During the course of hearing, the Id. DR has contended that the CIT(Appeals) has deleted the addition after admitting the additional evidence without confronting to the AO, therefore it is in violation of the provisions of Rule 46A of the Income-tax Rules. It was further contended that the AO has framed the assessment u/s. 144 of the Act having noted that the assessee has not complied with the directions of the AO. Therefore, the order of the CIT(Appeals) be set aside and matter may be restored to him to readjudicate the issue afresh, after affording opportunity of being heard to the AO.

3. The Id. counsel for the assessee has contended that the CIT(Appeals) has afforded due opportunity to the AO, but he did not come forward.

4. Having carefully examined the orders of authorities below in the light of rival submissions, we find that undisputedly the assessment was framed u/s. 144 of the Act and before the AO relevant evidence was not filed. The additional evidence was filed before the CIT(Appeals) for the first time, but the CIT(Appeals) without confronting the same to the AO has admitted it

and deleted the additions which amounts to violation of the provisions of Rule 46A of the Income-tax Rules. We therefore set aside the order of the CIT(Appeals) and restore the matter to his file with a direction to readjudicate the appeal afresh, after affording opportunity of being heard to the AO.

5. In the result, the appeal of revenue stands allowed for statistical purposes.

Pronounced in the open court on this 10th day of November, 2017.

Sd/-

(JASON P. BOAZ)
Accountant Member

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

Bangalore,
Dated, the 10th November, 2017.
/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Senior Private Secretary
ITAT, Bangalore.