

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

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

ITA No.1211/Bang/2016  
(Asst. Year 2008-09)

Sri Sheshappa Dasararaddi Raddi,  
Class-1, Contractor,  
Udayanagar, Sadhankeri,  
Dharwad.

. Appellant

Vs.

The Asst. Commissioner of Income-tax  
Circle-2(1),  
Hubbali.

. Respondent

Appellant by : Shri Siddareddy, Advocate

Respondent by : Shri B.R Ramesh, JCIT

Date of Hearing : 09-11-2017

Date of Pronouncement : 17-11-2017

**ORDER**

**PER SHRI JASON P BOAZ, ACCOUNTANT MEMBER :**

This appeal by the assessee is directed against the order of  
CIT(A), Hubli dated 29/1/2016 for asst. year 2008-09.

2. Briefly stated, the facts of the case, are as under:

2.1 The assessee, engaged in business as a Class-I civil contractor, filed the return of income for asst. year 2008-09 on 30/9/2008 declaring total income of Rs.23,71,387/-. The case was selected for scrutiny and the assessment was then completed u/s 143(3) of the Income Tax Act, 1961 (in short 'the Act') wherein the assessee's income was determined at Rs.39,95,900/- by estimating the assessee's income at 8% of turnover. Subsequently proceedings u/s 147 of the Act were initiated for re-opening the assessment for this year and the Assessing Officer ('AO') after recording reasons in this regard, issued notice u/s 148 of the Act to the assessee on 2/7/2014. The re-assessment was concluded u/s 143(3) r.w.s 147 of the Act vide order dated 27/1/2015 wherein the assessee's income was determined at Rs.60,88,350/- in view of the AO making an addition of Rs.21,92,454/- (comprising other indirect income of Rs.8,99,279/- and interest income of Rs.12,93,175/-).

2.2 Aggrieved by the order of assessment dated 27/1/2015 for asst. year 2008-09, the assessee filed an appeal before the CIT(A), Hubli which was dismissed vide the impugned order dated 29/1/2016.

3. Aggrieved by the order of the CIT(A), Hubli dated 26/1/2016 for asst. year 2008-09 the assessee has filed this appeal before the Tribunal, wherein he has raised the following grounds:-

*"1 .The order of the Hon'ble Commissioner of Income Tax (Appeals), Hubli is opposed to law and facts of the case.*

2. *The Hon'ble Commissioner of Income Tax (Appeals) ought to have appreciated that the appellant has declared the income on the basis of the audited books of accounts thus the estimate of income @8% of the turnover is bad in law.*
3. *The Hon'ble Commissioner of Income Tax (Appeals) ought to have deleted the additions aggregating to Rs.21,90,454/- made by the Assessing Officer.*
4. *The Hon'ble Commissioner of Income Tax (Appeals) erred in upholding the order of assessment.*
5. *The appellant craves for leave to add to, delete from or amend the grounds of appeal.”*

4. At the outset of the hearing, the ld AR for the assessee brought to the notice of the Bench and filed a copy of the decision of the co-ordinate bench of this Tribunal in the assessee's own case for asst. years 2007-08 to 2009-10 in ITA No. 948 to 950/Bang/2014 dated 18/10/2016. It is submitted by the ld AR that by this order, the co-ordinate bench set aside the orders of the ld CIT(A) back to his file for re-adjudication in the assessee's own case, for the aforesaid three assessment years which, 'inter alia', also pertained the original order of assessment for asst. year 2008-09. It was prayed that since the present appeal is against the re-assessment order for asst. year 2008-09, the same may also be set aside and remanded to the file of the ld CIT(A) where the appeals for asst. years 2007-08 to 2009-10 are

pending disposal. The ld DR for Revenue did not object to the assessee's prayer for setting aside this appeal to the file of the ld CIT(A).

5. We have heard both parties and perused and carefully considered the material on record. As submitted by the ld AR for the assessee, we find that the co-ordinate bench of this Tribunal vide its order in ITA Nos.948 to 950/Bang/2014 dated 18/10/2016 has set aside the orders of the CIT(A) in assessee's own case for asst. years 2007-08 to 2009-10 for re-adjudication of the appeals for the aforesaid asst. years afresh; which the ld AR submitted were pending disposal. The present appeal before us is in respect of the re-assessment order for asst. year 2008-09, which asst. year inter alia, is also for consideration and re-adjudication before the ld CIT(A). In our considered view, we deem it appropriate to set aside the impugned order of the ld CIT(A) for asst. year 2008-09 and do so by remanding the same to the file of the ld CIT(A) for fresh adjudication of the assessee's appeal along with those for asst. years 2007-08 to 2009-10 already set aside by the co-ordinate bench of this Tribunal vide its order in ITA No. 948 to 950/Bang/2014 dated 18/10/2016. Needless to add, the ld CIT(A) will afford the assessee adequate opportunity of being heard and to file details/submissions which shall be duly considered by him before decisions are taken on the grounds raised. We hold and direct accordingly.

6. Since we have set aside the impugned order of the ld CIT(A) dated 29/1/2016 for asst. year 2008-09 for fresh adjudication as

directed in para 5 of this order (Supra), we decline considering and adjudicating the grounds raised by the assessee on merits in this appeal at S No. 1 to 5 (Supra).

7. In the result, the assessee's appeal for asst. year 2008-09 is treated as allowed for statistical purposes.

Order pronounced in the open court on **17<sup>th</sup> November, 2017.**

Sd/-

**(SUNIL KUMAR YADAV)**  
**JUDICIAL MEMBER**

Sd/-

**(JASON P BOAZ)**  
**ACCOUNTANT MEMBER**

Bangalore

Dated : 17/11/2017

Vms

Copy to :1. The Assessee  
2. The Revenue  
3.The CIT concerned.  
4.The CIT(A) concerned.  
5.DR  
6.GF

By order

Asst. Registrar, ITAT, Bangalore.