

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

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER

ITA No.1652/Bang/2017
Assessment year : 2014-15

Shri Basanagouda Patil, Prop: Kamadenu Traders, Shop NO.3, Near Syndicate Bank, Lingeri Complex, Yadgir – 585 202. PAN: AKBPP 5745L	Vs.	The Income Tax Officer, Ward 1, Yadgir.
APPELLANT		RESPONDENT

Appellant by	:	Shri B.S. Balachandran, Advocate
Respondent by	:	Shri Vikas Suryawanshi, Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	15.11.2017
Date of Pronouncement	:	22.12.2017

ORDER

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

- “1. The order of the learned CIT (A) insofar as it is prejudicial to the interest of the appellant, is bad and unsustainable in the eye of law.
2. CIT (A) ought to have appreciated that for the purposes of S.68 of the It act, it is the amount/ sum credited in the books of accounts and not pass book as held by various courts; and hence the addition was bad in law.
3. CIT (A) ought to have appreciated that the alleged difference in closing bank balance was never put across to the

appellant by the A.O. and therefore the addition should not have been confirmed.

4. Without prejudice, the CIT(A) appreciated that the alleged difference was again in the bank account and not in the books of account of the appellant and therefore no addition could be made.

5. For these and such other grounds that may be urged at the time of hearing, the Appellant prays that the appeal may be allowed.”

2. During the course of hearing, the Id. Counsel for the assessee has invited our attention that there are certain deposits in the bank account which are duly explained to the AO and the CIT(Appeals), but they have not appreciated the explanation furnished by the assessee.

3. The Id. Counsel for the assessee further invited our attention to the order of the CIT(Appeals) in which it is mentioned that assessee has furnished the cash book explaining the availability of cash for depositing in the bank, but the explanation furnished by the assessee was not appreciated by the lower authorities. Therefore, in the interest of justice, the matter be sent back to the AO for readjudication of the issue in the light of the assessee's contentions.

4. The Id. DR, however, opposed the contentions of the assessee.

5. Having carefully examined the orders of lower authorities in the light of rival submissions, I find that the assessee has filed detailed explanation along with the cash book showing the availability of cash for deposit in the bank account, but all this evidence was not properly examined by the lower

authorities. I am, therefore, of the view that in the interest of justice, the matter be sent back to the AO for adjudication of the issue afresh. Accordingly, the order of the CIT(Appeals) is set aside and the matter is restored to the AO for readjudication of the impugned issue afresh, after affording opportunity of being heard to the assessee.

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

Pronounced in the open court on this 22nd day of December, 2017.

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

Bangalore,
Dated, the 22nd December, 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.