

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-B” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No.2610/Bang/2017
Assessment Year : 2014-15

Shri Byrav Gowda, No. 3, Narayanappa Compound, Next to N.N. Complex, Geddalahalli, Bangalore – 560 094. PAN: AOCPM 5151N	Vs.	The Income Tax Officer, Ward 6 (3) (2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Dr. G. Manojkumar, Addl. CIT (DR)

Date of hearing	:	11.01.2018
Date of Pronouncement	:	19.01.2018

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee which is directed against the order of Id. CIT(A) – 7, Bangalore dated 01.11.2017 for Assessment Year 2014-15.

2. The grounds raised by the assessee are as under.

“The Orders of the learned authorities below in so far as it is against the appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.

Ground 1:

The Learned Assessing Officer and Commissioner (Appeals) have neither appreciated the facts of the case in the true spirit nor examined the explanations / statements filed by the appellant judiciously, but instead passed the Order/(s) in haste without giving due importance to the circumstantial and documentary evidences produced before them.

Ground 2:

The authorities below have erred in relying on certain data obtained from the Bank Manager and mis-interpreting the same just to meet the ends of the Revenue, without giving an fair opportunity to the Appellant to show cause or explain his contention. The Appellant has been deprived of the Principles of Natural Justice.

Ground 3:

The authorities below are not justified based on the facts of the case to make presumption that the Savings Account held by the Appellant were in Individual capacity resorting to fishing & roving and reading between the lines of the Letter received from the Bank Manager where nothing is mentioned that the Bank Account is held by the Appellant in Individual capacity.

Ground 4:

The Learned Commissioner (Appeals) has deprived the Appellant of the Principles of Natural Justice by awarding an empty opportunity of filing submissions and additional evidences to show cause and place our objection and explanations only for the records. The Appeal proceedings under way were not time barring that it needed such speedy completion without understanding the hardships of the AR and giving leverage for the deadlines of the Income Tax Department in light of the documentary evidences to be filed pertaining to A.Y. 1999-2000.

It is respectfully submitted that we may be permitted to add, delete and / or put forward any other grounds and facts of appeal and other related points at the time of hearing.”

3. This appeal was filed by the assessee on 05.12.2017 and at the time of filing the appeal itself, the date of hearing fixed 11.01.2018 was intimated to the assessee in the acknowledgement cum notice. In spite of this, none appeared on behalf of the assessee on the appointed date of hearing and there is no request for adjournment and therefore, the appeal was heard ex-parte qua the assessee. The Id. DR of revenue supported the orders of authorities below.
4. I have considered the submissions of Id. DR of revenue and gone through the orders of authorities below. I find that in para nos. 2, 3 and 4 of the assessment order, the AO is discussing about cash deposit of Rs. 1,00,50,300/- in savings bank account no. 106601010008372 with Vijaya Bank. Thereafter the AO has further noted that this bank account is of the assessee's HUF and not his individual account. Thereafter, the AO has noted in para no. 3 of the assessment order that it was informed by Vijaya Bank in reply to notice u/s. 133(6) of IT Act that there is one more bank account with that bank of the said assessee in his individual capacity and the number is 106601011001394 and there is cash deposit of Rs. 9,70,370/- in this bank account. The AO has noted that the assessee is not disclosing this bank account in the balance sheet and in the balance sheet, he has shown cash

deposit of Rs. 72,091/- in the bank account of the Janatha Co-operative Bank. Thereafter in para no. 4 of the assessment order, the AO noted that during the course of hearing on 04.11.2016, the Id. AR of assessee was asked to furnish copies of ITR filed by the HUF for Assessment Year 2013-14 and 2014-15 and time was given to furnish the same on 10.11.2016. But there is no response from the assessee. Hence it is seen that this bank statement received from the bank in respect of assessee's bank account with Vijaya Bank in which there is cash deposit of Rs. 9,70,370/- was not confronted to the assessee and no explanation was called for from the assessee in this regard. Under these facts, I am of the considered opinion that the addition has been made by the AO on the basis of information obtained from bank behind the back of the assessee without confronting the assessee with the said information. This addition is not justified without confronting the assessee. Hence, I feel that in the interest of justice, the order of CIT(A) should be set aside and the matter should be restored back to the file of AO for fresh decision after confronting the assessee with the bank statement of his bank account and after obtaining the assessee's explanation in this regard. Accordingly I set aside the order of CIT(A) and restore the entire matter back to the file of AO for fresh decision in the light of above discussion after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 19th January, 2018.
/MS/

Copy to:

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

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.