

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'SMC – A', BANGALORE

BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA No.1886 (Bang) 2017
(Assessment year : 2014 – 15)

M/s. Sri Hanuman Cotton Ginners,
Plot No. P – 1, P – 2, SPL – 3,
Hyderabad Road, Industrial Area,
Raichur – 584102.
PAN. ABOFS9579F

Appellant

Vs

The ITO, Ward – 1,
Raichur.

Respondent

Assessee by : Shri Yogesh. R. Bung, C. A.
Revenue by : Dr. G. Manoj Kumar, Addl. CIT DR

Date of hearing : 09-01-2018
Date of pronouncement : 11-01-2018

ORDER

PER A. K. GARODIA, A.M.:

This appeal is filed by the assessee which is directed against the order of CIT (A) – Gulbarga dated 14.07.2017 for A. Y. 2014 – 15.

2. The assessee has raised as many as 8 grounds. But the effective grievances are only two regarding confirmation of the disallowance of Rs. 149,660/- out of Vehicle Maintenance expenditure and Rs. 940,440/- out of other expenditures claimed on this basis that these are agreed additions.
3. Learned AR of the assessee submitted a copy of an affidavit of a partner of the assessee firm dated 03.01.2018 in which it is stated that the assessee had signed the order sheet under this impression that he is not permitted to write anything in the order sheet regarding his disagreement and the signature on the proceeding sheet is for an evidence that the hearing is completed. He drawn my attention to Para 5.2 of the order of CIT (A) and pointed out that in this Para, it is stated by CIT (A) that the assessee has not made out a case that the addition was not made on agreed basis. He submitted that in view of this

affidavit of the assessee and in the interest of justice, it should be held that this is not a case of agreed addition and therefore, the matter should be decided on merit by CIT (A). Learned DR of the revenue supported the orders of the authorities below.

4. I have considered the rival submissions. I find that as per the assessment order and as per the order of CIT (A), the additions were made by the AO and confirmed by CIT (A) on this basis that the assessee has agreed for these additions. As per the affidavit of the assessee filed before me, it is stated that the assessee had signed the order sheet under this impression that he is not permitted to write anything in the order sheet regarding his disagreement and the signature on the proceeding sheet is for evidence that the hearing is completed. I feel that the assessee has made out a case that this is not a case of agreed addition and therefore, I feel that in the interest of justice, the learned CIT (A) should decide the issue on merit instead of rejecting the appeal of the assessee on this basis that it is case of agreed addition. Hence, the order of CIT (A) is set aside and the entire matter is restored back to CIT (A) for a decision on merit by way of a speaking and reasoned order after providing adequate opportunity of being heard to both sides. I do not make any comment on merit.
5. In the result, the appeal of the assessee is allowed for statistical purposes.

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

Sd/-
(A.K. GARODIA)
ACCOUNTANT MEMBER

Bangalore
D a t e d : 11.01.2018
/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.