

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH : BANGALORE

BEFORESHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER AND
SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

S.P. No. 42/Bang/2018 & ITA No. 373/Bang/2018
Assessment Year : 2014-15

Shri Rangaswamy Hanumegowda, No. 2, Kanyakumar Nilaya, Opp. Dr. AIT, MPM Layout, Mallathahalli, Bangalore – 560 056. PAN: ABUPH5641R	Vs.	The Income Tax Officer, Ward – 3(2)(3), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri P. Dinesh, Advocate
Revenue by	:	Dr. P.V. Pradeep Kumar, ACIT (DR)

Date of hearing	:	23.02.2018
Date of Pronouncement	:	26.02.2018

ORDER

Per Shri A.K. Garodia, Accountant Member;

This stay petition is filed by the assessee seeking stay of outstanding demand of Rs. 19,55,747/-.

2. It was submitted by Id. AR of assessee that the order of CIT (A) is ex-parte qua the assessee and although the notice of hearing on 11.01.2018 was served on the assessee as per Para no. 3 of the order of CIT (A), but on that date, the Id. AR of assessee could not appear but on earlier two dates i.e. on 12.12.2017 and 05.01.2018, the Id. AR of assessee appeared before the CIT (A). He submitted that he was sent back without hearing and therefore, some more opportunity should have been provided by CIT(A) and hence, in the facts of the present case, the matter should be restored back to the file of CIT(A) for fresh decision and if that is done then the stay petition of assessee will become infructuous. The Id. DR of revenue supported the order of CIT(A).
3. We have considered the rival submissions. We find that as per para 3 of the order of CIT(A), the appeal was fixed for hearing on 12.12.2017 and adjourned to 05.01.2018 and again adjourned to 11.01.2018 and thereafter, the impugned

order was passed by him on 25.01.2018. This is the submission of the Id. AR of assessee before us that on earlier two dates i.e. 12.12.2017 and 05.01.2018, the assessee appeared before the CIT (A) but he was sent back without hearing and although he could not appear on the third date i.e. 11.01.2018, further opportunity should have been provided by CIT (A). In view of these facts, we feel it proper to restore the entire matter back to the file of CIT(A) for fresh decision after providing adequate opportunity of being heard to both sides. We order accordingly. In view of this decision, no adjudication is called for regarding the merit of the case and therefore, we do not make any comment on the merit of the case. In view of our above decision, we had decided the appeal of the assessee and hence, the stay petition has become infructuous and it is being dismissed as infructuous.

4. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay petition is dismissed.

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

Sd/-
(SUNIL KUMAR YADAV)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 26th February, 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.