

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

BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA No.2790 (Bang) 2017
(Assessment year : 2009 – 10)

M/s. R & K fair Deals Pvt. Ltd.,
Sai Nikethan, 1st Cross,
1st Link Road, Basaveshwar Nagar,
Bellary.
PAN: AACCR9672C

Appellant

Vs

The Income Tax Officer,
Ward – 1,
Bellary.

Respondent

Assessee by : None
Revenue by : Shri Shankar Prasad K, JDIT DR

Date of hearing : 19-02-2018
Date of pronouncement : 23-02-2018

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 28.09.2017 for A. Y. 2009 – 10.

2. The assessee has raised as many as 7 grounds and has also raised 4 additional grounds. But the effective grievances are only two. First is regarding validity of reopening u/s 148 and second issue is regarding addition of Rs. 9 lacs u/s 68 as unexplained cash credit.
3. This appeal was fixed for hearing on 19.02.2018 and notice of hearing was sent to the assessee at the address provided by the assessee in Form No. 36. The notice has come back unserved. The assessee has not provided any other address on which the notice can be served on the assessee. Under these facts, the appeal of the assessee was heard ex parte qua the assessee. Learned DR of the revenue supported the orders of the authorities below.

4. I have considered the submissions of the learned DR of the revenue. I find that only five grounds were raised by the assessee before CIT (A) as reproduced by him on page 2 of his order and it tallies with Form 35 copy filed before the tribunal. As per these grounds, the grievance of the assessee is only about validity of reopening u/s 148 and no ground was raised on merit. The grounds raised by the assessee before CIT (A) were rejected by him by following the judgment of Hon'ble Delhi High Court rendered in the case of CIT vs. M/s Multiplex Trading & Industrial Co. Ltd. as reported in 378 ITR 351. It is also noted by CIT (A) in his order that Hon'ble Delhi High Court in this case has followed the judgment of Hon'ble Apex Court rendered in the case of CIT vs. Kelvinator of India Ltd., 320 ITR 561 (SC). I find no infirmity in the order of CIT (A) on the issue regarding validity of reopening. The issue on merit does not arise out of the order of CIT (A) because it was not raised before CIT (A). Hence these grounds on merit are rejected for this reason that these grounds do not arise from the order of CIT (A).

5. In the result, the appeal of the assessee is dismissed.

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 : 23.02.2018

/MS/

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

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.