

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BENGALURU**

**BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER
and
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA Nos.1119 & 1120/Bang/2018)
(Assessment year: 2014-15)
and
SP Nos.203 & 204/Bang/2018
(In ITA Nos.1119 & 1120/Bang/2018)
(Assessment year: 2014-15)

Karnataka Agrochemicals Pvt. Ltd.
No.43C, Hoskote Industrial Area,
Bengaluru-562 114. ... Appellant/
PAN: AAACK 5533 F Petitioner

Vs.

Addl. Commissioner of Income-tax,
Range 4(1),
Bengaluru. ... Respondent

Assessee by : Shri Sreehari Kutsa, CA.
Revenue by : Shri R.N.Siddappaji, Addl.CIT

Date of hearing : 16/10/2018
Date of pronouncement : 16/10/2018

ORDER

Per INTURI RAMA RAO, AM :

ITA Nos.1119 & 1120/Bang/2018:

These are appeals filed by the assessee-company directed against different orders of the learned Commissioner of Income-tax(Appeals)-4, Bengaluru, dated 31/03/2018 confirming the penalty of Rs.43,50,000/- levied u/s 271D and Rs.43,50,000/- levied u/s 271E of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short] for the assessment year 2014-15.

2. From the perusal of the order of the Id.CIT(A), it is clear that the orders of the Id.CIT(A) are *ex-parte*. We also note from the impugned orders of the Id.CIT(A) that the appeals were posted for hearing for the

first time for 10/03/2018, on which date, Id.AR of the appellant sought an adjournment and accordingly the matter was adjourned for 27/03/2018 on which date, Id.AR again sought for adjournment of hearing of the appeal. It is clear from the order of the Id.CIT(A) that there is nothing suggesting that the Id.CIT(A) had either rejected the adjournment petition or granted another date of hearing. However, the impugned order was passed on 31/03/2018 dismissing the appeal in the circumstances mentioned therein.

3. Being aggrieved, the assessee-company is before us in the present appeals. It was urged that the Id.CIT(A) ought not to have dismissed the appeals without granting another opportunity to the assessee.

On the other hand, Id.DR opposed the remand of the matter to the Id.CIT(A) and submitted that the assessee should not be given second innings to improve his case and reliance in this regard was placed on the decision of this Tribunal in the case of *ITO vs. M/s.Safran Engineering Services India Pvt. Ltd.*, IT(TP)A No.451/Bang/2015 dated 20/11/2017.

4. We heard rival submissions and perused the material on record. The solitary issue which comes up for our consideration is whether the matter requires to be remanded to the file of the Id.CIT(A) for fresh adjudication in accordance with law. Learned AR of the assessee sought an adjournment of hearing of appeal before Id.CIT(A) on 27/03/2018. However, the Id.CIT(A), without deciding the fate of adjournment petition, had proceeded with the disposal of the matter *ex-parte*. This approach of the Id.CIT(A), in our considered opinion, is not correct. However, keeping in view, non-co-operative attitude of the assessee before the AO, it is appropriate to remand the matter back to the file of the Id.CIT(A) subject to payment of cost of Rs.10,000/-. We order accordingly. The Id.CIT(A) is directed to dispose the matters in accordance with law after affording due opportunity of being heard to the AO as well as the assessee.

5. In the result, the appeals are treated as partly allowed for statistical purposes.

SP Nos.1119 & 1120/Bang/2018:

6. Since the appeals have been disposed of, the stay petitions become infructuous and are accordingly dismissed.

Order pronounced in the open court on 16th October, 2018

Sd/-

(SUNIL KUMAR YADAV)
JUDICIAL MEMBER

Place : Bengaluru.

D a t e d : 16/10/2018

srinivasulu, sps

Copy to :

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

sd/-

(INTURI RAMA RAO)
ACCOUNTANT MEMBER

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore