

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

**BEFORE SHRI JASON P BOAZ, ACCOUNTANT MEMBER
and
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA Nos.245 & 246/Bang/2019
(Assessment years: 2013-14 & 2014-15)

Sri Jagadguru Renukacharya Co-op Credit
Society Ltd.,
Channappa Kunnur College Road,
Shiggaon, Haveri Dist. ... Appellant
PAN: AAFT 9472F

Vs.

Income-tax Officer,
Ward 1,
Haveri. ... Respondent

Appellant by : Shri P.R.Suresh, CA.
Respondent by : Shri T.Chandrasekhar, Addl.CIT(DR)

Date of hearing : 01/03/2019
Date of pronouncement: 01/03/2019

O R D E R

Per BENCH:

The assessee has filled the appeals against different orders of the CIT(A), Davangere for the assessment years 2013-14 and 2014-15 passed u/s 143(3) and 250 of the Income-tax Act,1961 ['the Act' for short]. Since the issues are common both the appeals were heard together and consolidated order is being passed for the sake of convenience.

2. On the date of hearing, the assessee-society requested for early hearing but considering the facts and circumstances of the case, the appeals were heard and the learned DR has no objection.

3. For the sake of convenience, we shall take up the assessee's appeal in ITA No.245/Bang/2019. The assessee raised the following grounds of appeal:

1. "The Order of Appeal of the learned CIT(A), Davangere passed under section 250 the Act in so far as it is against the appellant is opposed to law, equity, weight of evidence. facts and circumstances in the Appellant's case.
2. The learned CIT(A), Davangere is not justified in law "dismissing the appeal for want of prosecution" without considering the written submission tendered in his office on 14.11.2018 — the date fixed for hearing.
3. The learned CIT(A). Davangere has erred in law. by not adjudicating the appeal on merits.
4. The learned CIT(A), Davangere has erred in law and facts not considering patent error in order of assessment assessing Rs.6,41,016/- contra entry between branch and Head offices as "Income from Other Sources".
5. The appellant craves leave to add, alter, amend, substitute or delete any or all of the grounds of appeal urged above.
6. For the above and other grounds to be urged during the course of hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice."

4. Brief facts of the case are that the assessee is engaged in the business of accepting deposits and lending loans to its members and e-filed the Return of income for the assessment year 2013-14 on 29/09/2013 with total income 'nil' after claiming deduction of Rs.12,30,497/- u/s 80P of the Income-tax Act,1961 ['the Act' for short]. The Return of income was processed u/s 143(1) of the Act. Subsequently, the case was selected for scrutiny and notices u/s 143(2) and 142(1) of the Act were issued. In response, the learned AR appeared from time to time and produced books of account and the documents

filed whereas the AO found that the assessee has interest amount of Rs.6,99,544/-, income from other sources of Rs.44,01,598/- and declined claim u/s 80P and assessed the total income at Rs.51,01,142/- and passed the order dated 28/03/2016.

5. Aggrieved by the order, the assessee has filed an appeal with the CIT(A). In the appellate proceedings, the CIT(A) posted the case for hearing on 22/2/2017 and again on 12/09/2018 and also the case was posted for hearing on 25/10/2018 and 14/11/2018. Since there was no response, the CIT(A), without going into merits has dismissed the appeal by applying the decision of the Tribunal in the case of *Multiplan (India) Ltd.* (38 ITD 32)(Del) for non-prosecution of case and observing that the assessee is not interested in prosecuting the appeal.

6. Aggrieved by the order, the assessee has filed appeal with the Tribunal. At the time of hearing, the learned AR submitted that the CIT(A) has erred in not considering the written submissions filed by the assessee on 14/11/2018 and the assessee has co-operated in the assessment proceedings. The learned AR filed paper book with supporting submissions filed with appellate authority and prayed that the order passed by the CIT(A) be set aside and allow the appeal of the assessee.

Contra, the learned DR objected to the submissions of the learned AR and mentioned that the CIT(A) has provided adequate opportunities as referred at page 1 of the CIT(A)'s order and the assessee chose not to appear. Therefore, the appeal of the assessee is to be dismissed.

7. We heard rival submissions and perused material on record. Prima facie, without going into the merits of the case, we find that the CIT(A) has passed ex-parte order and also the assessee was provided adequate opportunities of hearing on 22/2/2017, 12/09/2018, 25/10/2018 and on 14/11/2018. But the CIT(A) passed the order for non-prosecution of case on 14/11/2018. Whereas the learned AR submitted that on 14/11/2018 the assessee has filed written submissions before CIT(A) and also demonstrated and referred to page 33, 34, 35 and 36 of the paper book where we found endorsement from the office of the CIT(A) receiving the written submission on 14/11/2018 at 4.50 P.M. When these facts were brought to the notice of the learned DR, the learned DR conceded that it was filed with the Tappal of the office of CIT(A). The details filed in the written submissions was not brought on record by the CIT(A) and the appeal was dismissed for non-prosecution. Therefore, as prayed by the learned AR in the course of hearing, we deem it proper to provide one more opportunity to the assessee to represent its case with supporting evidences and documents in support of claims. Accordingly, we restore the entire disputed issue to the file of the CIT(A) for fresh adjudication and the assessee shall co-operate in submitting information for early disposal of the appeal and the CIT(A) shall pass a speaking order and reasoned order. Accordingly, the grounds of appeal of the assessee are allowed for statistical purposes.

8. Similarly, for assessment year 2014-15, as we have decided in the case of the assessee for assessment year 2013-14, we restore the disputed issues to the file of the CIT(A) for fresh adjudication. The assessee shall co-operate in submitting

information for early disposal of the appeal and the CIT(A) should pass a speaking order. Accordingly, the grounds of appeal of the assessee are allowed for statistical purpose

9. In the result, the appeals of the assessee for the assessment years 2013-14 and 2014-15 are allowed for statistical purposes.

Order pronounced in the open court on 1st March, 2019.

Sd/-

(JASON P BOAZ)
ACCOUNTANT MEMBER

Place : Bengaluru
Date : 01/03/2019.
srinivasulu, sps

Copy to :

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

sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore