

IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI JASON P. BOAZ, ACCOUNTANT MEMBER

ITA No. 1281/Bang/2018
Assessment Year : 2013-14

Mr. Yogen Karumbaya, No.101, Golden Threshold Apts., Alexandria Street, BANGALORE [PAN: AHOPK7116J]	Vs.	Income Tax Officer, Ward-5(3)(5), BANGALORE
APPELLANT		RESPONDENT

Appellant by : Shri K.R. Vasudevan, Advocate  
Respondent by : Shri R.N. Siddappaji, Addl.CIT

Date of hearing : 15-04-2019  
Date of Pronouncement : 24-04-2019

**ORDER**

***Per N V Vasudevan, Vice President :***

This is an appeal by the assessee against the order dated 21-02-2018 of the Commissioner of Income Tax (Appeals)-5, Bengaluru, relating to Assessment Year 2013-14.

2. The assessee is an individual. In the order of assessment dt. 05-03-2016 passed u/s. 143(3) of the Income Tax Act, 1961 (Act), for the AY. 2013-14, the Assessing Officer (AO) rejected the claim of assessee that the assessee was a non-resident during the relevant

previous year and therefore, income which accrued or has arisen outside India is not chargeable to tax. This contention was rejected by the assessee.

2.1. Aggrieved by the order of AO, assessee filed an appeal before the CIT(A).

3. The appeal before the CIT(A) was fixed for hearing on 17-08-2017 which was the only hearing before the CIT(A). On the date fixed for hearing, neither the assessee nor the AR of the assessee have appeared before the CIT(A). The CIT(A) therefore proceeded to decide the appeal *ex-parte* and found no ground to interfere with the order of AO.

3.1. Aggrieved by the order of CIT(A), assessee filed an appeal before the Tribunal.

4. Ground Nos. 1 and 2 raised by the assessee reads as follows:

*“1. The order dated February 21, 2018, issued by the learned Commissioner of Income Tax – Appeals-V (learned CIT(A)) and the learned Tax Officer, Ward 5(3)(5) (learned AO) dated March 5, 2016 is bad in law and on facts.*

*2. The learned CIT(A) erred in law and on the facts in passing the order without giving an appropriate opportunity of being heard on a specified date”.*

4.1. As can be seen from the above grounds, it projects the grievance of the assessee regarding violation of principles of natural justice and not providing a proper opportunity of being heard to the assessee. It is the plea of the assessee that on the date fixed for hearing, request for adjournment was sought to be filed in the office of the CIT(A), but want not accepted.

5. We are of the view that in the given facts and circumstances of the case and having regard to the fact that the date fixed for hearing was the first and the only date of hearing of the appeal, we are satisfied that there was lack of proper opportunity of being heard to the assessee. We therefore set aside the order of CIT(A) and direct the CIT(A) to decide the appeal of assessee on merits afresh, after giving an opportunity to the assessee.

6. In the result, the appeal of assessee is treated as allowed for statistical purposes.

Pronounced in the open court on this 24<sup>th</sup> day of April, 2019

Sd/-  
( JASON P. BOAZ )  
ACCOUNTANT MEMBER  
Bangalore,  
Dated, the 24<sup>th</sup> April, 2019.

TNMM

Sd/-  
( N.V. VASUDEVAN )  
VICE PRESIDENT

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore