

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

BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER

**ITA No. 178 (Bang) 2019
(Assessment year : 2015 – 16)**

Shri Pankaj Janak Kumar,
No. 548, 2nd Floor, 7th Main, 5th Cross,
HAL 2nd Stage, Indiranagar,
Bangalore – 560008.
PAN. AFPPK1835D

Appellant

Vs

ITO, Ward 1 (2) (3),
Bangalore.

Respondent

**Assessee by : Smt. Sheetal Borkar, Advocate
Revenue by : Smt. Padma Meenakshi, JCIT (DR)
Date of hearing : 11-04-2019
Date of pronouncement : 16-04-2019**

ORDER

PER A. K. GARODIA, A.M.:

This appeal is filed by the assessee and it is directed against the order of CIT (A) – 1 Bengaluru dated 26.11.2018 for A. Y. 2015 – 16.

2. The assessee has raised as many as 6 grounds but only one grievance of the assessee is about addition of Rs. 10,25,968/- made by the AO u/s 69 of the I T Act.

3. Learned AR of the assessee submitted that the impugned order of CIT (A) is ex parte qua the assessee. She also submitted that that only one date of hearing was fixed by CIT (A) on 26.11.2018 as noted in the impugned order. She submitted that it shows that sufficient opportunity of being heard was not provided by CIT (A). She submitted that in view of this and in the interest of justice, the matter may be restored to CIT (A) for fresh decision after providing adequate opportunity of being heard to the assessee. As against this, learned DR of the revenue submitted that the notice sent by CIT (A) came back unserved

but the learned CIT A) has sent the notice by E. Mail also and hence, no further opportunity should be provided.

4. I have considered the rival submissions. I find that this is true that only one date of hearing was fixed by CIT (A) on 26.11.2018 and nobody appeared before CIT (A) on this date and no request was made for adjournment. I also find that although the paper notice was not served but the notice was sent by E Mail also and therefore, it is presumed that it was served on the assessee. But still, I feel that fixing only one date of hearing cannot be considered as sufficient opportunities. Therefore, I set aside the order of CIT (A) and restore the material back to his file for a fresh decision after providing adequate opportunity of being heard to both sides. In view of this decision, no decision on merit is called for at the present stage.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

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

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 16th April, 2019.
/MS/

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

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.