

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH : BANGALORE

BEFORE SHRI N.V VASUDEVAN, VICE PRESIDNET AND
SHRI B.R BASKARAN, ACCOUNTANT MEMBER

ITA No.587 to 590/Bang/2015

Assessment year : 2007-08 to 2010-11

Shri B Ravi Kalyan Reddy, Director in M/s R.K Mining Pvt. Ltd., [As an aggrieved person, in r/o to the asst. made on M/s Assocaited Ming Co.] Opp. Kollapur Mahalakshmi Temple, Vidyanagar, Bellary. PAN – AAHFA 3896 P.	Vs.	The Dy. Commissioner of Income-tax , Central Circle-1(3), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Narendra Sharma, Advocate
Revenue by	:	Shri Suresh Battini, CIT (DR)

Date of hearing	:	03.06.2019
Date of Pronouncement	:	.06.2019

ORDER

Per B.R Baskaran, Accountant Member

All these appeals filed by the assessee are directed against the orders passed by Id CIT(A)-11 and they pertain to asst. years 2007-08 to 2010-11. As the underlying facts are identical in these appeals, they were heard together and are being disposed of by this common order, for the sake of convenience.

2. The assessee herein is a Director in M/s R.K Mining Pvt. Ltd., and is also a partner in a partnership firm named M/s Associated Mining Company. The Revenue carried out a search and seizure operations u/s 132 of the Act in the case of Shri K.M Vishwanath group on 10/12/2010, which included M/s Associated Mining company, referred above.

3. It is pertinent to note that composition of partners of M/s Associated Mining Company has undergone change during the different periods. The assessee herein and M/s R.K Mining Pvt. Ltd., became partners of the above said firm only w.e.f 1/4/2011 onwards. Accordingly, it is the submission of the assessee that he was a partner of M/s Associated Mining Company at the time of search as well as during the years under consideration.

4. The AO passed the assessment orders in the hands of M/s Associated Mining Company for assessment years 2005-06 to 2010-11. According to Ld AR, the assessing officer has send the demand notices to the assessee herein in respect of assessment orders passed for AY 2007-08 to 2010-11 in the hands of M/s Associated Mining Company. Accordingly, the assessee filed appeals before Ld CIT(A) challenging the asst. orders passed for asst. year 2007-08 to 2010-11 (i.e the period prior to date in which the assessee herein became partner) in the hands of M/s Associated Mining Company, in his capacity as 'aggrieved person'. It is pertinent to note that M/s Associated Mining Company had also filed appeals challenging the assessment orders passed in its hands for the above said years.

5. The Id CIT(A) noticed the fact that the firm, M/s Associated Mining company has also filed appeals before Ld CIT(A)_6, Bengaluru and the said appeals have been dismissed vide order dated 25/8/2014. Accordingly, the Id CIT(A) took the view that no further adjudication is necessary on the appeals filed by the assessee herein for the same asst. years in the capacity of 'aggrieved person', since the said asst. orders have since been upheld by CIT(A)-6. Accordingly he dismissed the appeals filed by the assessee.

6. Not satisfied with the orders passed by the Id CIT(A), the assessee has filed this appeals before us.

7. At the time of hearing, the Id AR furnished a copy of order dated 18/10/2016 passed by the coordinate bench in the hands of M/s Associated Mining Company for the asst. years 2005-06 to 2010-11 in ITA No.1355 to 1360/Bang/2014. He submitted that the co-ordinate bench has held that the asst. orders passed for the above said asst. years are null and void. Accordingly he submitted that the present appeals filed by the assessee in the capacity of 'aggrieved person' would be covered by the orders passed by the co-ordinate bench (referred supra) and accordingly prayed that the appeals of the assessee be allowed.

8. We heard Id DR and perused the record. We noticed that the coordinate bench, vide its order referred supra, has held that the asst. orders passed for asst. year 2005-06 to 2010-11 in the hands of M/s Associated Mining Company as null and void. We have

earlier noticed that the assessee herein has preferred present appeals against the very same assessment orders passed for AY 2007-08 to 2010-11 in the capacity of “aggrieved person”. Since the asst. years passed for above said years have been held to be null and void by the co-ordinate bench, the orders passed by Id CIT(A)-6 in the hands of M/s Associated Mining Company no longer exists. Accordingly, the orders passed by Ld CIT(A)-11 in the hands of the assessee needs to be set aside, since he had dismissed the appeals filed by the assessee only for the reason that the assessment orders passed in the hands of M/s Associated Mining Company have been upheld by Ld CIT(A)-6. Accordingly we reverse the orders passed by Ld CIT(A). As the impugned assessment orders have been held to be null and void by the co-ordinate bench, the grounds urged by the assessee shall become infructuous.

9. In the result, all the appeals filed by the assessee are treated as allowed for statistical purposes.

Order pronounced in the Open Court on **June, 2019.**

Sd/-

(N.V Vasudevan)
Vice President

Bangalore,
Dated, June, 2019.

/ vms /

Sd/-

(B.R Baskaran)
Accountant Member

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation
2. Date on which the typed draft is placed before the dictating Member
3. Date on which the approved draft comes to Sr.P.S
4. Date on which the fair order is placed before the dictating Member
5. Date on which the fair order comes back to the Sr. P.S.
6. Date of uploading the order on website.....
7. If not uploaded, furnish the reason for doing so
8. Date on which the file goes to the Bench Clerk
9. Date on which order goes for Xerox & endorsement.....
10. Date on which the file goes to the Head Clerk
11. The date on which the file goes to the Assistant Registrar for signature on the order
12. The date on which the file goes to dispatch section for dispatch of the Tribunal Order
13. Date of Despatch of Order.