

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH : BANGALORE**

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER  
AND SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 2919/Bang/2018</b>
<b>Assessment year : 2013-14</b>

M/s. Fine Blanking Pvt. Ltd., Block No.201/2, 202/1 & 202/2, Revadihal Road, Gokul Village, Hubli – 580 030. <b>PAN: AAACF 2752K</b>	Vs.	The Joint Commissioner of Income Tax, Range-3, Hubli.
APPELLANT		RESPONDENT

Applicant by	:	Shri S.V. Ravishankar, Advocate
Respondent by	:	Shri S. Sukumar, Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	17.06.2019
Date of Pronouncement	:	21.06.2019

**ORDER**

**PER BEENA PILLAI JUDICIAL MEMBER**

Present appeal has been filed by assessee against order dated 24.08.2018 passed by Ld.CIT(Appeals), Hubballi pertaining to assessment year 2012-13, on following grounds of appeal:-

“1. The order of the CIT (A) in so far as they are against the appellant are opposed to law, equity, and weight of evidence, probabilities, facts and circumstances of the case.

2. The appellant denies itself liable to be assessed to a total income of Rs.85,20,090/- as against the total income returned by the appellant of Rs. 74,39,526/- for the impugned assessment year 2013-14 on the facts and circumstances of the case.

The learned CIT(A) was not justified on facts and in law, in stating that the appellant has not filed any submissions or documents, which is contrary to fact, on the facts and circumstances of the case.

4. The learned CIT(A) was not justified in confirming the disallowances of the current repairs of Rs. 12,11,152/- as capital expenditure by stating that the same had to be capitalised on the facts and circumstances of the case.

5. Without prejudice, the learned CIT(A) ought to have appreciated that the expenditure was in the nature of current repairs of machinery and not capital expenditure, the expenditure ought to have been allowed as expenditure under section 37, of the Act.

6. The learned CIT(A) was not justified in not passing a speaking order after considering the submissions and documents filed and has passed a perverse order on the facts and circumstances of the case.

7. The appellant denies the liability to pay interest under section 234D of the Act in view of the fact that there is no liability to additional tax as determined by the learned assessing officer. Without prejudice the rate, period and on what quantum the interest has been levied are not discernable from the order and hence deserves to be cancelled on the facts and circumstances of the case.

8. The appellant craves leave to add, alter, modify, delete or substitute any or all of the grounds and to file a paper book at the time of hearing the appeal.

9. In view of the above and other grounds that may be taken at the time of the hearing the appeal, the appellant prays that the appeal be allowed in the interest of justice and equity.”

2. At the outset it has been submitted by Ld. AR that Ld. CIT(A) passed impugned order *ex parte* without considering the issues based upon the submissions filed before him. In the statement filed along with grounds of appeal before this Tribunal assessee submitted that notice of hearing fixed on 27/03/18 was received by assessee beyond time, however, assessee filed written submission, copies of invoices, financials with schedules and case laws by way of emails as was required in the notice. Assessee has also annexed the copy of email.

3. It has been submitted that the impugned order passed by Ld. CIT(A) is without referring to those submissions made by assessee by email.

4. Ld.Sr.DR, submitted that the issue may be set aside to Ld. CIT (A) for considering the issue based upon the submissions filed by assessee.

5. We have perused submissions advanced by both sides in the light of the records placed before us.

6. It is observed that Ld.CIT (A) did not decide the issue on merits having regard to the submissions made by assessee.

7. We are therefore inclined to set aside this appeal back to Ld.CIT (A) with a direction to consider the evidences filed by assessee and to decide the grounds raised in accordance with law. Assessee shall also file all requisite details before Ld. CIT (A) as called for in order to support its claim. Ld. CIT (A) shall then pass a detailed order on merits. Needless to

say that, fair and reasonable opportunity shall be granted to assessee in accordance with law.

8. Accordingly grounds raised by assessee stands allowed for statistical purposes.

9. In the result, the appeal by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 21<sup>st</sup> day of June, 2019.

Sd/-  
( A.K. GARODIA )  
Accountant Member

Sd/-  
( BEENA PILLAI )  
Judicial Member

Bangalore,  
Dated, the 21<sup>st</sup> June, 2019.  
/ Desai Smurthy /

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.