

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

BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA No.384/Bang/2019
Assessment year : 2015-16

Sri Kamalesh Narayanaswamy, Near Keshavaswamy Temple, Vijayapura, Devanahalli, Bengaluru-562 135. PAN – CHMPK 0263 N	Vs.	The Income-tax Officer, Ward-6(3)(4), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri S.V Ravishankar, Advocate
Respondent by	:	Shri R.N Siddappaji, Addl. CIT

Date of hearing	:	01.07.2019
Date of Pronouncement	:	02.07.2019

ORDER

Per B.R Baskaran, Accountant Member

The assessee has filed this appeal challenging the order dated 11/12/2018 passed by Id CIT(A)-6, Bengaluru and it relates to asst. year 2015-16. The assessee is challenging the addition made by the AO towards unexplained bank deposits.

2. At the outset, the Id AR submitted that the assessee could not appear before the AO for reasons beyond his control and hence the AO was constrained to pass the asst. order to the best of his judgment u/s 144 of the Income-tax Act 1961 ('the Act'). The Id AR

submitted that the assessee had filed its return of income by giving address of his permanent residence. The said house has been rented out and the assessee has shifted his residence to a new place. The same is evidenced by the rental agreement dated 10/2/2106 furnished at pages 179 to 181 of the paper book. The various notices issued by the AO were served at the permanent address and they were not handed over to the assessee by the tenant. Hence the assessee could not appear before the AO.

3. The Ld A.R further submitted that the assessee gave very same explanations before Ld CIT(A), but the first appellate authority was not convinced by it. Hence he has refused to admit the additional evidences furnished by the assessee to prove the sources and genuineness of bank deposits assessed in the hands of the assessee. Accordingly the ld AR submitted that there was sufficient cause for the assessee for not appearing before the AO. Accordingly he prayed that the additional evidences furnished by the assessee before the ld CIT(A) to explain the sources of bank deposits may kindly be admitted and the matter may be restored to the file of the AO for examining them afresh.

4. On the contrary, the ld DR strongly opposed to the plea put forth by the ld AR. The ld DR submitted that the assessee has been given notices to the address furnished in the return of income. He submitted that it is the duty of the assessee to intimate the change in address. Further the assessee was contacted over phone also by the AO. However the assessee has not responded to the phone calls and also to the notices issued by the AO. Hence, the AO was

constrained to levy penalty u/s 271(1)(b) of the Act also. Accordingly the ld DR submitted that the assessee's plea should not be accepted and order passed by ld CIT(A) should be upheld.

5. Having heard the rival contentions, we are of the view that, in the interest of natural justice, the assessee should be provided with an opportunity to furnish evidences in order to prove the deposits made into the bank account of the assessee, which has been assessed as unexplained cash credits. However, as contended by the Ld D.R, it is the duty of the assessee to intimate change in address. Accordingly, we are of the view that the prayer of the assessee should be accepted on certain terms. Accordingly, we impose a cost of Rs.10,000/- on the assessee, which shall be paid to the credit of the Income-tax Department as 'other fees' within one month from the date of receipt of this order of the Tribunal. Subject to the payment of the above cost, we set aside the order passed by the ld CIT(A) and restore all the issues contested before us to the file of the AO for examining them afresh. After affording adequate opportunity of being heard, the AO may take appropriate decision in accordance with law.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purpose.

Order pronounced in the Open Court on **2nd July, 2019.**

**Sd/-
(Beena Pillai)
Judicial Member**

**Sd/-
(B.R Baskaran)
Accountant Member**

Bangalore,
Dated, 2nd July, 2019.

/vms /

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
- 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.