

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

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

ITA No.2529/Bang/2018
Assessment year : 2008-09

Harman Connected Services Corporation India Pvt. Ltd. (formerly known as Symphony Services Corporation India P. Ltd.) No.3 & 3A, EOIZ Industrial Area, Survey No.85 & 86, Sadarmangala Village, Krishnarajapuram Hobli, Bangalore – 560 066. PAN: AABCG 5658E	Vs.	The Assistant Commissioner of Income Tax, Circle 3(1)(2) (formerly Range 12), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Rashmi, Advocate
Respondent by	:	Shri Pradeep Kumar, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	27.06.2019
Date of Pronouncement	:	03.07.2019

ORDER

Per N.V. Vasudevan, Vice President

This is an appeal by the assessee against the order dated 16.03.2018 of the CIT(Appeals), Bengaluru-6, Bengaluru relating to assessment year 2008-09.

2. The assessee is a company engaged in the business of software development. An order of assessment u/s. 143(3) of the Income-Tax Act,

1961 [“the Act”] dated 21.12.2011 for AY 2008-09 was passed by the AO in which he made certain additions to the total income declared by the assessee. The assessee was aggrieved by the additions so made by the AO and preferred appeal before the CIT(Appeals). The appeal before the CIT(A) was posted for hearing on 18.8.2016 & 27.02.2018. From the order of the CIT(A), it is not clear if the notices of hearing on these dates were served on the assessee. The CIT(A) issued a notice dated 1.3.2018 posting the appeal for hearing on 12.2.2018. None appeared on behalf of the assessee and therefore he proceeded to decide the appeal of the assessee *ex parte*. The CIT(Appeals) found no merit in any of the grounds raised by the assessee and dismissed the appeal of assessee.

3. Aggrieved by the order of CIT(Appeals), the assessee has filed the present appeal before the Tribunal.

4. The Id. counsel for the assessee submitted that the assessee did not have opportunity of being heard. In this regard, the Id. counsel for the assessee filed before us an affidavit of Shri Vivek Khemka, Director of the assessee, in which it has been pointed out that they did not receive any notice of hearing from the CIT(A) because they had shifted the registered office to a different place. The impugned order had been passed by the CIT(Appeals) on 16.3.2018. As early as 4.2.2016, the assessee had informed the change of address before the office of CIT(Appeals)-6, but that intimation was in relation to appellate proceedings for the AY 2009-10. The fact remains that the assessee had not informed about the change of address to CIT(Appeals), insofar as it relates to AY 2008-09. Nevertheless, the fact remains that the assessee did not receive any notice of hearing of the appeal from the office of the CIT(Appeals) for the AY 2008-09. In fact, the CIT(A) in para 14 of the order has given a direction that the assessee’s whereabouts should be located and appellate order should be served on

the assessee. In the given facts and circumstances of the case, we are satisfied that the assessee did not have proper opportunity of being heard before the CIT(Appeals). We therefore set aside the order of CIT(Appeals) and the remand for fresh consideration the grounds of appeal raised by the assessee before the CIT(Appeals). The CIT(A) shall afford opportunity of being heard to the assessee before deciding the case.

5. The appeal of assessee is allowed for statistical purposes.

Pronounced in the open court on this 3rd day of July, 2019.

Sd/-

(B.R. BASKARAN)
Accountant Member

Sd/-

(N.V. VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 03rd July, 2019.

/ Desai Smurthy /

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.