

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "B", BANGALORE**

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

**ITA No.812(Bang)/2019
(Assessment Year : 2015-16)**

The Income tax Officer,
Ward-6(3)(1),
Bangalore

Appellant

Vs

Sri Jayappa Reddy,
No.1, Manjunatha Nilaya,
Cholanayakanahalli, R T Nagar,
Bangalore-560 032
PAN No.AGAPJ9691E

Respondent

**Revenue by : Shri R.N.Siddappaji, Addl.CIT
Appellant by : Sri Prathik, P CA**

**Date of hearing : 23-07-2019
Date of pronouncement : 23-07-2019**

ORDER

PER SMT BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by revenue against order dated 14/01/19 passed by Ld. CIT (A)-6, Bangalore for assessment year 2015-16.

2. Brief facts of the case are as under:

Assessee filed his return of income for year under consideration on 15/02/17 declaring taxable income of Rs. 7, 87, 240/-. Return was processed under section 143 (1) of the act and case was selected for scrutiny. Accordingly, notice under section 143 (2) and 142 (1) along with questionnaire was issued to assessee. In response to statutory notices, representative of assessee appeared before Ld. AO and filed requisite details as called for.

3. Ld. AO observed that assessee is has received a sum of Rs. 50 Lacs out of consideration of rupees one crore as per sale agreement dated 09/03/15. Ld. AO called upon assessee to prove the genuineness of exempted income claimed or compulsory acquisition an agricultural income with the relevant documents. Ld. AO called for various details like;

- details of land which got acquired
- details of which government/board acquired the land
- total amount of compensation received,
- mode of compensation received
- copy of bank statement in which compensation amount credited
- Form No. 26AS towards compensation received.

Ld.AO has recorded that assessee had only filed letter dated 30/11/17. Rejecting the explanation given by assessee in respect of the advances received, Ld. AO made addition in the hands of assessee.

4. Aggrieved by addition made by Ld.AO, assessee preferred appeal before Ld.CIT (A) who deleted addition by placing reliance upon RTC certificate produced by assessee.

4.1 Aggrieved by the order passed by Ld. CIT (A) revenue is in appeal before us.

5. At the outset Ld. DR submitted that there is violation of Rule 46A of Income Tax Rules, as assessee had filed certain documents which was not before Ld. AO. He submitted that is Ld. CIT (A) also did not call for remand report in respect of the same and therefore great prejudice is caused to revenue

6. Ld. AR submitted that assessing officer proceeded on the footing that it was a compulsory acquisition of land which has been submitted to be not true. Admittedly assessee had not filed the documents placed at page 21 of paper book before Ld. AO.

7. We have perused submissions advanced by both sides in the light of the records placed before us. We agree with argument advanced by Ld. senior DR that there is a violation of Rule 46A as document based upon which relief has been granted to assessee by Ld. CIT (A) was not subjected to verification by Ld.AO.

7.1 We are therefore of considered opinion that the issue deserves to be set-aside to Ld. CIT (A) in order to give proper opportunity to Ld. AO to verify the document by calling for a remand. Ld. CIT (A) shall then pass a detailed order based upon the remand report by giving proper opportunity to assessee of being heard.

Accordingly grounds raised by revenue stands allowed for statistical purposes.

8. In the result appeal filed by revenue stands allowed for statistical purposes

Order pronounced in the open court on 23-07-2019.

Sd/-

(B.R.BASKARAN)
ACCOUNTANT MEMBER

Dated: 23-07-2019

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

By Order

Asst. Registrar

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

