

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

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA. No.437/Bang/2017
(Assessment Year: 2013-14)

Shri Balachandra Sidramappa Hulkoti, Hubli Road, Hulkoti-582205 PAN: ACKPH 2723D	Vs.	Income Tax Officer, Ward-1, Gadag.
(Appellant)		(Respondent)

Assessee By:	Smt. Pratibha R, Advocate.
Revenue By:	Dr. P. V. Pradeep Kumar, Addl. CIT (D.R)

Date of Hearing :	10.07.2019
Date of Pronouncement :	26.08.2019

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

The assessee has filed an appeal against the order of Commissioner of Income Tax (Appeals), Hubli passed u/s. 143(3) and u/s 250 of the Income Tax Act, 1961.

2. At the time of hearing, the learned Authorised Representative has not pressed the Ground No.3 and made endorsement in the grounds of appeal. Accordingly Ground No.3 is treated as not

pressed and dismissed. The effective grounds 1, 2 & 4 which are as under :

1. The order passed by the Learned Commissioner of Income Tax (Appeals) is illegal, baseless and opposed to the facts of the case.

2. The Learned Commissioner of Income (Appeals) has erred in not considering the Income of the Assessee in the past and also in the current year also. The learned CIT (Appeals) ought to have given credit for the Income of the assessee both business and agricultural for the current year and in the past. The assessee's family owns about 32 acres of Agricultural land which are irrigated and the assessee grows Mango, Sapota, Coconut, Banana etc.

4. The assessee prays leave to add any more grounds of appeal before at the time of hearing.

We found Ground Nos.1 & 4 are general in nature.

3. The Brief facts of the case are that the assessee is engaged in the business and filed the Return of Income for the Asst. Year 2013-14 on 10.01.2015 and the Return of Income was processed under Section 143(1) of the Act with total income of Rs.2,99,290. Subsequently the case was selected for scrutiny under CASS and Notice under Section 143(2) and 142(1) of the Act were issued. In compliance, the learned Authorised Representative appeared from time to time and filed the details. Whereas the assessee has declared the income under provisions of Section 44AD of the Act and Short Term Capital Loss. The Assessing Officer found that

the assessee has made cash deposits in Axis Bank, Gadag to the extent of Rs.45,96,000 in the previous year. The explanation was sought for and whereas the assessee vide letter dt.02.02.2016 submitted that all the Deposits in the Bank account are agriculture income of the family members and filed Village Assistant Certificate, supporting the agriculture income. The Assessing Officer issued letter dt.18.02.2016 to the Axis Bank, Gadag for the Bank account statement and Assessing Officer on verification of statement found that the Bank account was opened in the status of individual. Similarly the Assessing Officer has also issued letter to Manager, Way to Wealth, Stock Broker and reply was filed. The contention of the Id. AR that the sources of deposit are out of agricultural income of family. Similarly, the assessee made a deposit of Rs.5 lakhs in KCC Bank, Gadag on 28.2.2013 and also made deposits in the Merchants Liberal Co-op Bank and no explanation was offered. Finally the Assessing Officer made addition of cash deposits of Rs.55,34,000 and assessed total income of Rs.58,33,290 and passed the order under Section 143(3) of the Act dt.23.3.2016. Aggrieved by the order, the assessee filed an appeal before the CIT (Appeals) whereas the CIT (Appeals)

concluded with the findings of the Assessing Officer and dismissed assessee's appeal. Aggrieved by the order of the CIT (Appeals), the assessee filed an appeal before the Tribunal.

4. The learned Authorised Representative of the assessee has submitted that CIT (Appeals) erred in not considering the material filed in the course of appellate proceedings which are vital for decision making and further emphasized that the assessee has ancestral properties and sale deed was executed in respect of ancestral property and sale proceeds were also deposited into the Bank Account and supported her arguments with Paper Book and prayed for allowing the appeal. Contra, the learned Departmental Representative supported the orders of the CIT (Appeals).

5. We heard the rival submissions and perused the material on record. The learned Authorised Representative contention that the assessee has sufficient sources of cash and same was deposited in the Bank account and demonstrated with the copy of sale deed executed in favour of Suresh Enterprises Pvt. Ltd. at pages 9 to 21 of the Paper Book. The said property was sold by the assessee along with co-owners and sale consideration was received by

cheque and was credited to Bank Accounts. The learned Authorised Representative emphasized that the assessee's Bank account deposits are duly supported out of the agricultural income from HUF sources. On perusal of the Bank statement, we found that the assessee has made deposits for clearance of cheques and there are no withdrawals prior to the deposits. Further the assessee maintained Bank account with KCC Bank Ltd., Gadag and made cash deposits which is not disputed. The assessee filed Certificate from Village Accountant and the Agricultural income sources placed at pages 44 to 66 of the Paper Book but the fact remains that the assessee could not explain in detail the sources of investment and cash deposits in the Bank accounts, nor the cash flow statement was filed. We considering facts and material on record and to meet the ends of justice, provide one more opportunity to the assessee to substantiate the claim before the Revenue authorities and accordingly we restore the entire disputed issue to the file of learned CIT(Appeals) to adjudicate afresh after obtaining the Remand Report from the Assessing Officer on the submissions and evidences filed by the assessee and further the assessee should be provided adequate opportunity of hearing and

co-operate in submitting the information for early disposal of the appeal and the grounds of appeal of the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 26th Aug., 2019.

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Dated: 26.08.2019.

*Reddy GP

Copy to

i)The Appellant	ii)The Respondent	iii)CIT (Appeals)
iv) Pr. CIT	v)DR, ITAT, Bangalore	vi)Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore