

IN THE INCOME TAX APPELLATE TRIBUNAL

“B” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER

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| ITA No. 3121/Bang/2018 |
| Assessment Year : 2014-15 |

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| M/s. The Grain Merchants Co-op Bank Ltd., # 02, Pampa Mahakavi Road, Chamrajpet, Bangalore – 560 018. PAN: AAAAT4670J | Vs. | The Assistant Commissioner of Income Tax, Circle – 5 (2) (1), Bangalore. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri Pradeep Kumar .S, CA |
| Revenue by | : | Shri R.N. Siddappaji, Addl. CIT (DR) |

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| Date of hearing | : | 20.08.2019 |
| Date of Pronouncement | : | 28.08.2019 |

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee which is directed against the order of Id. CIT(A)-5, Bangalore dated 13.08.2018 for Assessment Year 2014-15.

2. The grounds raised by the assessee are as under.

“1. The impugned Appellant order dated 13-08-2018 passed by the Learned CIT(A), Bengaluru, is opposed to law, facts and circumstances of the Case.

2. The Ld. CIT(A) has erred in holding that the Appellant has failed to submit the objection to remand report, without examining reply letter with reference to remand report submitted on 12-09-2018.

3. The Ld. CIT(A) has erred in confirming the additions made by the AO amounting to Rs.17,53,500/- without examining the details furnished in written submission on 06-08-2018 and reply to remand report submitted on 12-09-2018.

4. The Ld. CIT(A) has erred in not providing adequate and sufficient opportunity to the appellant before passing an impugned Appellant order dated 13-08-2018.

5. The Ld. CIT(A) has erred in confirming the addition of Rs.17,53,500/-as income of the Appellant without appreciating fact that the expenditure claimed purely a business expenditure allowable under section 37 of Income tax act, since all the expenditure were supported by proper evidence.

6. The Appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing.

For these and other grounds that may be urged at the time of hearing, the Appellant prays that your Hon'ble Authority be pleased to pass order directing the Authorities below to delete the additions of made of Rs.17,53,500/- and further to be pass such other orders granting such other relief as your Hon'ble Authority may deem fit in the interest of justice and equity.”

3. Both sides were heard. This was a query of the bench as to whether the details and evidences of various expenses claimed is available so that the nature of expenses can be examined and decided. In reply, it was submitted by Id. AR of assessee that complete details and evidences are not readily available and hence, in the interest of justice, the matter may be restored back to the file of AO/Id. CIT(A) for fresh decision and if this is done, the assessee will furnish all necessary details along with the evidences.
4. We have considered the rival submissions and gone through the orders of authorities below. We find that on page no. 6 of his order, it is noted by Id. CIT(A) that the expenditure may have been incurred to achieve the objects of the society but the expenditure has not been incurred solely for business purpose. It is further noted by Id. CIT(A) on same page that the amount spent by the assessee out of funds earmarked by appropriation of profits cannot be allowed as deduction u/s. 37 as expenditure wholly and exclusively incurred for the purpose of business. Hence it is seen that the decision on this issue is mainly on this basis that the expenditure have been incurred out of the funds earmarked by appropriate of profits and there is no finding about the nature of expenditure. In our considered opinion, whether the expenditure is debited to P&L account or not and what is the source of fund for incurring the

expenditure cannot be conclusive and that too without referring to nature of expenditure. Hence, we set aside the order of Id. CIT(A) and restore the matter back to his file for fresh decision by way of a speaking and reasoned order regarding the nature of expenses incurred by the assessee and claimed as deduction. The assessee has to furnish the complete details along with the evidences regarding those expenses for which deduction is claimed by the assessee and the burden is on the assessee to establish that these expenses are incurred for business purposes and therefore, allowable u/s. 37 of the IT Act or any particular section of the IT Act. We make no comment on merit.

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

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(BEENA PILLAI)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 28th August, 2019.
/MS/

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

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.