

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 279/Bang/2019
Assessment Year : 2013-14

M/s. Janahitha Credit Co-operative Society Ltd., No. 53, 2 nd Floor, 10 th Cross, 2 nd Main WCR, 2 nd Stage, Mahalakshmi Layout, Bangalore. PAN: AAAJJ0302L	Vs.	The Joint Director of Income Tax (Intelligence and Criminal Investigation), Bangalore.
APPELLANT		RESPONDENT
Assessee by	:	Shri Balram R Rao, Advocate
Revenue by	:	Dr. S. Palani Kumar, Addl. CIT (DR)
Date of hearing	:	23.07.2019
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)-6, Bangalore dated 14.11.2018 for Assessment Year 2013-14.

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

“1. The learned Commissioner of Income-tax (Appeals), Bangalore - 6 (hereinafter referred to as 'the learned CIT(A)') erred in upholding the action of the learned Joint Director of Income Tax (Intelligence & Criminal Investigation) (hereinafter referred to as 'the learned JD IT (I & CI)') in levying the penalty of Rs.55,000/- under the provisions of section 272A(2)(c) of the Act.

2. The order passed under section 272A(2)(c) of the Income tax Act is illegal and void ab initio and penalty levied is liable to be quashed.

3. For these and such other grounds that may be urged at the time of hearing of the appeal the appellant prays that the appeal may be allowed.”

3. At the very outset, it was submitted by Id. AR of assessee that the impugned order of Id. CIT(A) is ex-parte qua the assessee. He also submitted that in the year 2017, two notices were issued by earlier Id. CIT(A) but by the present Id. CIT(A) who passed the present order, only one notice was issued dated 16.10.2018 and although the assessee could not make compliance but Id. CIT(A) should have provided reasonable opportunity of being heard and since

this was not done by Id. CIT(A), in the interest of justice, the matter may be restored back to his file for fresh decision after providing reasonable opportunity of being heard to assessee. The Id. DR of revenue supported the order of Id. CIT(A).

4. We have considered the rival submissions. We find that this is true that in the year 2017, two notices dated 30.11.2017 and 26.12.2017 were issued to assessee and it is noted by Id. CIT(A) in para 4 of his order that there was no compliance but thereafter, because of change in the incumbent, fresh notice of hearing was issued on 16.10.2018. On this date, the assessee wanted adjournment and this was granted and there is no mention in para 4 of the order of Id. CIT(A) as to when the next date of hearing was fixed by him on which none attended on behalf of the assessee and hence, in the interest of justice, we feel it proper to restore the matter back to the file of Id. CIT(A) for fresh decision after providing reasonable opportunity of being heard to both sides. We order accordingly. The order of Id. CIT(A) is set aside and the matter is restored back to the file of Id. CIT(A) for fresh decision after providing reasonable opportunity of being heard to both sides. In view of this decision, we do not make any comment on the merit of the case.
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/-
(PAVAN KUMAR GADALE)
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.