

IN THE INCOME TAX APPELLATE TRIBUNAL

“A” BENCH : BANGALORE

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

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| ITA No. 395/Bang/2019 |
| Assessment Year : 2015-16 |

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| Shri Rangappa Krishnamurthy, No. 11, Sri Ranga, TPK I Main Road, Raghavendranagar, Tumkur – 572 102. PAN: AYGPK3167Q | Vs. | The Income Tax Officer, Ward – 1, Tumkur. |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri Sreehari Kutsa, CA |
| Revenue by | : | Smt. Kabila .H, JCIT (DR) |

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| Date of hearing | : | 19.08.2019 |
| Date of Pronouncement | : | 23.08.2019 |

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)-7, Bangalore dated 24.12.2018 for Assessment Year 2015-16.

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

“1. The Order of the learned Commissioner of Income-tax (Appeals), passed under section 250 of the Act in so far as it is against the Appellant, is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal without affording adequate opportunity of hearing on the facts and circumstances of the case.

3. The Appellant denies herself liable to be assessed to tax on a total income of Rs.68,56,400/- as determined by the learned AO and confirmed by the learned CIT(A) as against the total income of Rs. 3,56,400/- as declared by the Appellant on the facts and circumstances of the case.

4. *The CIT(A) ought to have appreciated that the addition of Rs.50,00,000/- under section 69 of the Act on account of cash deposits is not justified in law and on the facts and circumstances of the case.*

5. *The CIT(A) ought to have appreciated that the cash deposits had no character of income and thus erred in upholding the addition on the facts and circumstances of the case.*

6. *The CIT(A) ought to have appreciated that the addition of Rs.15,00,000/- on account of income from non-agricultural activities is not justified in law and on the facts and circumstances of the case.*

7. *The CIT(A) ought to have appreciated that the income from agriculture is exempt and question of making it taxable for the reasons given by him is not in accordance with law on the facts and circumstances of the case.*

8. *The CIT(A) ought to have appreciated that the Appellant carries on organic farming and the question of incurring expenses of nature specified by the horticulture department does not arise on the facts and circumstances of the case.*

9. *The CIT(A) failed to appreciate that there is no income derived by the Appellant from dairy farming on the facts and circumstances of the case.*

10. *The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.*

11. *In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”*

3. At the very outset, it was submitted by Id. AR of assessee that sufficient opportunities of hearing was not provided by Id. CIT(A). He pointed out that the appeal was first fixed for hearing on 15.11.2018 as noted by Id. CIT(A) in para 2 of his order and on this date, a request was made for adjournment by Id. AR of assessee. The second date of hearing was fixed on 12.12.2018. On this date, although none could appear before Id. CIT(A) and no written submission was filed and no request for adjournment was made, but still in the interest of justice, some more opportunities should have been provided by Id. CIT(A). Learned DR of the revenue supported the order of CIT (A).
4. We have considered the rival submissions and we find force in the submissions of the learned AR of the assessee that sufficient opportunity of

hearing was not provided by Id. CIT(A). Hence, we set aside the impugned order of Id. CIT(A) and restore the matter back to his file for a fresh decision after providing reasonable opportunity of being heard to both sides. In view of this decision, no adjudication on merit is called for at the present stage.

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 23rd 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.