

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBE

ITA Nos.893 & 894/Bang/2019
Assessment years : 2011-12 & 2013-14

Meghana Satish Shetty, No.73, Nanda Comforts, 15 th Cross, Padmanabha Nagar, Bangalore. Karnataka. PAN: CEDPS 3502N	Vs.	The Income Tax Officer, Ward 2, Shimoga.
APPELLANT		RESPONDENT

Appellant by	:	Shri R.E. Balasubramaniam, CA
Respondent by	:	Shri Sunil Kumar Agarwal, Addl.CIT(DR)(ITAT), Bengaluru

Date of hearing	:	11.09.2019
Date of Pronouncement	:	13.09.2019

ORDER

Per N V Vasudevan, Vice President

This appeal by the assessee is against the two separate orders dated 18.02.2019 of the CIT(Appeals), Davangere relating to assessment years 2011-12 & 2013-14.

2. The assessee is an individual. For the AY 2011-12, the assessee filed return of income declaring total income of Rs.3,22,393. The main source of income of the assessee was income from salary and income from other sources. The assessment was completed u/s. 144 of the Income-Tax Act, 1961 [“the Act”] (best judgment assessment) determining total income of the assessee at Rs.1,33,89,760 after making the following additions:-

Additions

1	Balance in Canara Bank as on 1.4.2010	20,15,015
2	Cash balance as on 01.04.2010	30,25,690
3	Gift from mother	5,00,000
4	Gift from relatives	41,00,000
5	Cash deposits in bank	35,00,000

	Total	1,31,40,705

3. Similarly, for the AY 2013-14, the assessee filed a return of income declaring total income of Rs.5,91,590. Assessment was completed u/s. 143(3) of the Act, after making the following additions to the total income of assessee:-

Additions

1	Git from uncle	1,10,00,000
2	Gift in cash	3,00,000
3	Gift in kind	9,00,000
4	Interest income	9,00,000

	Total	1,31,00,000

4. Against the additions made by the AO in both the assessment years, the assessee preferred appeals before the CIT(Appeals). As far as AY 2011-12 is concerned, the assessee submitted that the assessment was completed u/s. 144 of the Act and since the assessee did not have opportunity of being heard, he must be afforded an opportunity by the AO. The CIT(Appeals) allowed such opportunity and sought a remand report from the AO. The CIT(A) after extracting the entire remand report of the AO, finally gave the following conclusions in the impugned order:-

“6c. I have perused the order and detailed Remand Report of the AO and the submissions made by the appellant. Considering

all the above facts, I hold that the order of the AO needs no interference. Thus, **all the grounds fail.**”

5. Similarly, for the 2013-14, the CIT(Appeals) after extracting the submissions of the assessee, which was to the effect that the amounts were gifts received from relatives received through banking channels, gave his conclusions as following:-

“6a. During the course of appeal, the Ars have raised various arguments and the same was considered. The ARs were unable to show how the action of the AO was not in tune with the provisions of the Income-tax Act. Under these circumstances there is no scope to intervene with the Assessment Order. Therefore, **the grounds fail.**”

6. Aggrieved by the aforesaid orders, the assessee has preferred the present appeal before the Tribunal.

7. We have heard the rival submissions. It is the plea of the assessee that the CIT(Appeals) has not applied his mind to the remand report of the AO in AY 2011-12 as well as the submissions of the assessee in respect of additions made in AY 2013-14. Since the order of the CIT(Appeals) is a non-speaking order giving no reasons, it was prayed that the same may be set aside and the CIT(A) should be directed to decide the appeal afresh and pass a reasoned order. We find force in the submissions of the Id. counsel for the assessee and we are of the view that the order of CIT(Appeals) should set aside in both the assessment years as it is a non-speaking order. Accordingly, the order of the CIT(Appeals) is set aside and the CIT(Appeals) is directed to pass a speaking order on the remand report of the AO in AY 2011-12 and after considering the submissions of the assessee in AY 2013-14. He is also directed to afford opportunity of being heard to the assessee.

8. In the result, both the appeals of the assessee are accordingly treated as allowed for statistical purposes.

Pronounced in the open court on this 13th day of September, 2019.

Sd/-

(VIKRAM SINGH YADAV)
ACCOUNTANT MEMBER

Sd/-

(N.V. VASUDEVAN)
VICE PRESIDENT

Bangalore,

Dated, the 13th September, 2019.

/ Desai Smurthy /

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.