

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No. 1044/Bang/2019
Assessment Year : 2015-16

M/s. Sri Lakshmi Venkateshwara Irrigation, No. 5, Sri Lakshmi Venkateshwara Complex, Chikkaballapur – 562 101. <b>PAN: ACTFS6279C</b>	Vs.	The Income Tax Officer, Ward – 1, Chikkaballapur.
APPELLANT		RESPONDENT

Assessee by	:	Shri H. Guruswamy, ITP
Revenue by	:	Shri Ganesh R. Ghale, Standing Counsel for Dept.

Date of hearing	:	26.09.2019
Date of Pronouncement	:	11.10.2019

**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 13.03.2019 for Assessment Year 2015-16.

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

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The impugned Appellate order dated: 13-03-2019 passed by the Ld. CIT(A), Bangalore-6 is opposed to law, facts and circumstances of the case.</i>	
2.	<i>The Ld. CIT(A) has erred in issuing directions to the AO to consider the addition of Capital Introduced for the A.Y 2014-15 which is contrary to the law and facts of the case.</i>	<i>Rs. 11,87,724/-</i>
3.	<i>The Ld. CIT(A) has erred in confirming</i>	<i>Rs. 1,81,276/-</i>

	<i>the addition of Rs. 4,41,384/- being the diminished value of Bank Balance without appreciating the facts and circumstances of the case.</i>	
4.	<i>The Appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing.</i>	
<i>Total tax effect (see note below)</i>		<i>Rs. 13,69,000/-</i>

3. Regarding ground no. 1, it was submitted by Id. AR of assessee that this ground is general and no separate adjudication is called for. Regarding ground no. 2, it was submitted that in para no. 5.2 of his order, it is held by Id. CIT(A) that addition in the present year on account of capital introduction is deleted because no fresh capital was introduced in the present year and entire capital was introduced in Financial Year 2013-14 relevant to Assessment Year 2014-15. But after holding so, the Id. CIT(A) has given a direction to the AO for making addition in Assessment Year 2014-15 after verification of facts involved. He submitted that this direction of Id. CIT(A) is bad in law because this is for different Assessment Year and in support of this contention, he placed reliance on the judgment of Hon'ble Karnataka High Court rendered in the case of Consolidated Coffee Ltd. Vs. ITO as reported in [1985] 155 ITR 729 (Kar). As against this, the Id. DR of revenue supported the order of Id. CIT(A).
4. I have considered the rival submissions. This is by now a settled position of law that the Id. CIT(A) cannot set aside any issue to the file of AO. In the present case, the Id. CIT(A) has decided the issue in the present year in favour of the assessee as per para no. 5.2 of his order but simultaneously, he directed the AO to make addition in Assessment Year 2014-15 after verification of the facts involved. In my considered opinion, this direction of Id. CIT(A) is beyond his powers. Reliance has been placed on the judgment of Hon'ble Karnataka High Court rendered in the case of Consolidated Coffee Ltd. Vs. ITO (supra) but this judgment is regarding scope of section 150(1). Section 150(1) is regarding issue of notice u/s. 148 of the IT Act in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceedings under this Act by way of

appeal, reference or revision. In the present case, the facts are different and hence, this judgment is not applicable. Because of this reason that Id. CIT(A) has no power to remand any matter to the AO, this direction of Id. CIT(A) in para no. 5.2 of his order to the AO to make addition in Assessment Year 2014-15 after verification of the facts is held to be bad in law and beyond the power of Id. CIT(A). Ground no. 2 is allowed.

5. Regarding ground no. 3, it was submitted that this issue was decided by Id. CIT(A) in para no. 5.3 of his order and it was pointed out that this issue was discussed by the AO on page no. 5 of the assessment order where it is noted by the AO that the bank balance as on 31.03.2015 was only Rs. 1,527/- as against balance of Rs. 4,42,911/- shown by the assessee in the balance sheet. The AO made addition in respect of this difference of Rs. 4,41,384/-. The Id. AR of assessee pointed out that this was explained before the AO that reporting of bank balance of Rs. 4,42,911/- as against actual balance of Rs. 1,527/- was an inadvertent typographical mistake and the same cannot be considered as an income chargeable to tax u/s. 69 of the IT Act. It refers to only investments of which entries are found recorded in the books of accounts. Before us also the same submission was made and it was submitted that when the actual bank balance is less than the bank balance reported by the assessee in the balance sheet, no addition is justified for such typographical mistake in the balance sheet. He submitted that the balance sheet copy is available on page no. 12 of the paper book in which bank balance with Vijaya Bank is Rs. 4,42,911/- and the rectified balance sheet is available on page no. 13 of the paper book in which the bank balance with Vijaya Bank is shown correctly at Rs. 1,527/-. He pointed out that in both these balance sheets, the current liability sundry creditors is same i.e. Rs. 2,94,425/- and the capital balance has gone down from Rs. 27,56,868/- to Rs. 23,15,484/-. He submitted that under these facts, no addition is justified. The Id. DR of revenue supported the orders of authorities below.
6. I have considered the rival submissions and in view of the facts discussed above, I feel that the addition made by the AO is not justified and hence, I

delete the same because this is not the case of the revenue that there is any unexplained investment or unexplained cash credit. Accordingly ground no. 3 is allowed. Ground no. 4 is general.

7. In the result, the appeal filed by the assessee is allowed.

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

Sd/-  
(ARUN KUMAR GARODIA)  
Accountant Member

Bangalore,  
Dated, the 11<sup>th</sup> October, 2019.  
/MS/

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

By order

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Bangalore.