

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'SMC-C', BANGALORE**

BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER

**ITA No. 2016 (Bang) 2019
(Assessment year : 2014 – 15)**

M/s. Medigas Systems,
No. 725, 4th main, 2nd Phase, 5th Stage,
BEML layout, Rajarajeswari Nagar,
Bangalore – 560098.
PAN. AAQFM5545G

Appellant

Vs

The ACIT, Circle – 3 (2)(1),
Bangalore.

Respondent

**Assessee by : Shree S. V. Ravishankar, Advocate
Revenue by : Shri Ganesh R. Ghale, Standing Counsel
Date of hearing : 23-10-2019
Date of pronouncement : 25-10-2019**

ORDER

PER A. K. GARODIA, A.M.:

This appeal is filed by the assessee and it is directed against the order of CIT (A) – 3 Bangalore dated 20.06.2019 for A. Y. 2014 – 15.

2. It was submitted by the learned AR of the assessee that it is noted by CIT (A) in Para 3.1 of his order that the appeal was filed by the assessee against assessment order u/s 143 (3) as noted in column 2 (a) of Form 35 filed online. He submitted that in the same para of his order, it is noted by CIT (a) that the grounds raised by the assessee relate to order u/s 143 93), order u/s 271 (1) (c) of I. T. Act and non-disposal of rectification application. He pointed out that as per para 3.3 of the impugned order, learned CIT (A) has held that the appeal is defective because one appeal is filed against two orders being order u/s 143 (3) and 271 (1) (c) and against non-disposal of rectification petition u/s 154. He filed a letter stating that the appeal filed by the assessee before CIT (A) may be considered as an appeal filed against the assessment order u/s 143 (3) in respect

of sole disallowance of Rs. 14.40 Lacs for want of partnership deed and the remaining grounds can be rejected. He submitted that the matter may be restored to CIT (A) for a decision on merit in respect of only one issue i.e. disallowance of Rs. 14.40 Lacs for want of partnership deed. Learned DR of the revenue supported the order of CIT (A).

3. I have considered the rival submissions and in the light of facts as noted above, I find that it is noted by CIT (A) also in para 3.1 of his order that the appeal was filed by the assessee before him against the assessment order u/s 143 (3) as stated in Form 35 filed online. Learned CIT (A) got confused because in the grounds of appeal, other issues are also raised. In such a situation, proper course of action is to decide those grounds which arise out of the assessment order u/s 143 (3) and any other ground should be rejected on this basis that the same does not arise from the assessment order against which the appeal is filed by the assessee and it is not proper to say that the appeal is defective and not maintainable. Hence, I set aside the order of CIT (A) and restore the matter back to him for a decision on merit in respect of those grounds which are arising out of the impugned assessment order passed by the AO u/s 143 (3) against which the appeal was filed by the assessee and any other ground should be rejected on this basis that the same does not arise from the assessment order against which the appeal is filed by the assessee. In view of this decision, no adjudication on merit is called for at the present stage.

4. In the result, the appeal of the assessee is allowed for statistical purposes. Order pronounced in the open court on the date mentioned on the caption page.

Sd/-
(A.K. GARODIA)
ACCOUNTANT MEMBER

Bangalore

D a t e d : 25.10.2019

/MS/

Copy to :

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

By order,

AR, ITAT, Bangalore