

IN THE INCOME TAX APPELLATE TRIBUNAL

“A” BENCH : BANGALORE

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

ITA No. 801/Bang/2019
Assessment Year : 2014-15

Shri Achaibarprasad Nandan Verma L/R. of Varma Muni (Late), No. 49, Chandrabhan Distributors, Outer Ring Road, Nagawara Junction, Bangalore – 560 045. PAN: ADWPV9768P	Vs.	The Income Tax Officer, Ward – 1 (2) (5), Bangalore.
APPELLANT		RESPONDENT
Assessee by	:	Shri Pradeep
Revenue by	:	Shri Sunil Kumar Agarwal, Addl. CIT (DR)
Date of hearing	:	16.10.2019
Date of Pronouncement	:	15.11.2019

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the assessee and the same is directed against the order of Id. CIT(A)-1, Bangalore dated 24.01.2019 for Assessment Year 2014-15.

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

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal</i>
1.	<i>The assessee has borrowed Rs. 149 Lacks by SBI RTGS from her spouse and her spouse by mortgage his property has borrowed 171 Lacks from TATA Housing Finance Ltd. The learned Assessing Officer is not justified in treating the entire loan outstanding of Rs. 1,46,42,151/- as unexplained loan creditor and added as business Income.</i>	<i>Rs.49,91,174/-</i>
2.	<i>The learned Assessing Officer erred in calculating interest U/s 234A, 234B and 234C of the Income Tax Act 1961.</i>	<i>Rs.17,82,920/-</i>
<i>Total tax effect (see note below)</i>		<i>Rs. 67,74,094/-</i>

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 pointed out that notices of hearing issued by Id. CIT(A) were not served on the assessee. He pointed out that it is noted by Id. CIT(A) also in the impugned order that the notices issued by him had come back unserved with the remark of postal department that the "addressee not known". He submitted that there is no fault of assessee in this because on the same address, the notices issued by the Tribunal were served on the assessee. He submitted that in the interest of justice, the matter may be restored back to the file of Id. CIT(A) 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. In view of the facts noted above that the notice issue by the Tribunal on the same address was duly served on the assessee and in the interest of justice, we feel it proper to restore back the matter to the file of Id. CIT(A) for fresh decision. We order accordingly. We set aside the order of Id. CIT(A) and restore the matter back to the file of Id. CIT(A) for fresh decision after providing adequate 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/-
(PAVAN KUMAR GADALE)
Judicial Member

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 15th November, 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.