

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC-A” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

ITA No. 1779/Bang/2019
Assessment Year : 2012-13

Shri L. Shivalingaiah, No. 94/P, 8 th Cross, 11 th Main, RMV Extn., Sadashivanagar, Bangalore – 560 080. PAN: AJMPS8592C	Vs.	The Assistant Commissioner of Income Tax, Circle 1 (3), Bangalore.
APPELLANT		RESPONDENT
Assessee by	:	Shri V. Sridhar, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Dept.
Date of hearing	:	24.10.2019
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)-11, Bangalore dated 31.05.2019 for Assessment Year 2012-13.

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

- “1. The order of the CIT-A is opposed to law and fact of the case.*
- 2. The learned CIT-A erred in not considering the cash withdrawals from State Bank of Hyderabad, A/c. No.62181826947, Austin Town, Bangalore to the extent of Rs.29,25,000/-.*
- 3. The learned CIT-A erred in not considering the cash withdrawn from State Bank of Hyderabad, Austin Town, Bangalore has been deposited to State Bank of Mysore, Sadashivanagar Branch, Bangalore, A/c. No.54001169078.*
- 4. The learned CIT-A erred in not considering that the cash withdrawn from bank has been utilized to meet the drawings.*
- 5. The learned CIT-A erred in considering Rs.3,442/- towards profit during the year as the said income was not earned by your appellant*
- 6. For these and other grounds that may be adduced at the time hearing the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered.”*

3. At the very outset, it was submitted by Id. AR of assessee that the order of Id. CIT(A) is ex-parte qua the assessee. In reply to query from the bench as to why the assessee has not appeared before Id. CIT(A), it was submitted that assessee is of 80 years of age and because of this reason, the assessee could

not appear before Id. CIT(A) and could not authorize any person to appear before Id. CIT(A) and it was requested 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). He also submitted that it is noted by Id. CIT(A) in para 2 of his order that several notices were issued by Id. CIT(A) to assessee but there was no compliance and there was no request for adjournment also. He submitted that under these facts, no further opportunity should be granted to the assessee.

4. I have considered the rival submissions. I find that this is true that it is noted by Id. CIT(A) in par 2 of his order that four dates of hearing were fixed by Id. CIT(A) on 28.01.2019, 01.03.2019, 08.05.2019 and 30.05.2019 and there was no compliance on any of these dates but still considering the old age of the assessee and in the interest of justice, I feel it proper to restore the matter back to the file of Id. CIT(A) for fresh decision. I order accordingly and 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/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 15th November, 2019.
/MS/

Copy to:

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.