

**SIN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER  
AND**

**SMT. BEENA PILLAI, JUDICIAL MEMBER**

**ITA No.168(Bang)/2019  
(Assessment Year : 2014-15)**

M/s Karnataka Forest Development  
1 Floor, Vana Vikas, 18<sup>th</sup> Cross,  
Malleshwaram,  
Bangalore-560 003  
Pan No.AAACK9424B

Appellant

**Vs**

The Pr.Commissioner of Income Tax,  
5<sup>th</sup> Floor, BMTC Building, Koramangala,  
Bangalore

Respondent

**Appellant by : Shri B.S.Balachandran, Advocate  
Revenue by : Ms. Neera Malhotra, CIT,DR**

**Date of hearing : 25-11-2019**

**Date of pronouncement : 29-11-2019**

**ORDER**

**PER SMT BEENA PILLAI, JUDICIAL MEMBER:**

Present appeal has been filed by assessee against order dated 26/12/18 passed by Ld.CIT, Bangalore-4, under section 263 of the Act for assessment year 2014-15 on following grounds of appeal:

1. *The order of the Pr..CIT is contrary to law, facts, evidences on record and is not maintainable in law.*
2. *The ld.Pr.CIT erred in not considering the evidences filed before her on merits which evidences clearly shows that there is no loss of revenue and hence no prejudice to the interest of the revenue which renders the order u/s 263 invalid in law.*
3. *The ld.CIT erred in setting aside the issue of Rule 7A(2) to the file of the AO without considering the evidences filed on merits which clearly shows that the allowance granted was in order.*
4. *Without prejudice to the above the AO has applied his mind to Rule &A(2) as per the details called for and furnished and thus there is no any failure to conduct the enquiry.*
5. *For these are any other grounds of appeal that may be urged at the time of hearing it is prayed that the Hon'ble ITAT may be pleased to allow this appeal in the interest of equity and justice.*

**2. Brief facts of the case are as under:**

Assessee filed its return of income for assessment year under consideration on 31/03/15 declaring current loss of Rs.431,08,73,830/-. The assessment was completed under section 143 (3) of the Act vide order dated 26/12/16 wherein, addition of Rs.7,25,42,337/- was made.

2.1 Subsequently, vide notice dated 24/09/18 Ld.CIT held order dated 26/12/16 to be erroneous and prejudicial to the interest of revenue to the extent of allowance claimed by assessee on

rubber tree plantation under Rule 7A(2) amounting to Rs.7,91,38,318/-.

Ld.CIT noted that Ld.AO failed to conduct enquiries regarding above issue. Ld.CIT, on verifying various details filed by assessee, passed order under section 263 on 26/12/18, holding that sum of Rs.4,72,34,627/- capitalised by assessee out of Rs.7,91,38,318/- being not clear, needs verification as per Rule-7A(2). He further directed Ld.AO to verify reasons for capitalisation of part expenditure.

3. Ld.AR submitted that details referred to by Ld.CIT is factually incorrect as total deduction claimed is Rs.7,91,38,318/- whereas actual addition during year being Rs.4,72,34,673/- has been capitalised and reflected in fixed assets.

3.1 Ld.CIT DR, on the contrary, placing reliance upon decision of *Hon'ble Supreme Court* in case of *Malabar industrial Co Ltd vs CIT* reported in (2000) 243 ITR 83 as well as *Hon'ble Supreme Court* in case of *CIT vs Amitabh Bachchan* reported in 384 ITR 200. She submitted that reason for revision of assessment order was proposed due to no enquiry by Ld.AO and therefore deserves to be upheld.

4. We have perused submissions advanced by both sides in the light of records placed before us.

4.1 Admittedly, Ld.AO at the time of original assessment proceedings did not verify claim of assessee under Rule-7A(2). There is nothing on record to establish that even a query was raised by Ld.AO in regards to the claim. However, from the statement furnished by the assessee, we note that the amount

of Rs.4,72,34,673/- represent opening balance and the same has been capitalized by the assessee. During the year under consideration assessee has incurred expenses of Rs.8,80,48,770/- out of which a sum of Rs.89,10,452/- was capitalized. Accordingly, a sum of Rs.7,91,38,318/- was claimed as expenses under Rule 7A. We notice that Ld.CIT has not appreciated these facts, in proper perspective. Accordingly, we are of the opinion, that Ld.CITA) should look into the facts once again. Accordingly, we set aside the order passed by Ld.CIT, and restore all issues to his file for examining them afresh.

**In the result, appeal filed by assessee allowed for statistical purposes.**

Order pronounced in the open court on 29-11-2019.

Sd/-  
**(B.R.BASKARAN)**  
**ACCOUNTANT MEMBER**  
Dated: 29-11-2019

Sd/-  
**(BEENA PILLAI)**  
**JUDICIAL MEMBER**

**\*am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

By Order  
Asst. Registrar