

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC-A” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

ITA No.1210/Bang/2019
Assessment year : 2014-15

Shri. Mundachalil Chambra Bharatan, 6/599, Madhavirams Edakkad, Nadal, Kannur Dist, Kerala – 670 663. <b>PAN : ABWPB 5456 G</b>	Vs.	The Income Tax Officer, Ward – 5(2)(1), Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>
Assessee by	:	Shri. C. Suresh Kumar, FCA
Revenue by	:	Shri. Ganesh G. R, Standing Counsel
Date of hearing	:	19.11.2019
Date of Pronouncement	:	20.12.2019

**ORDER**

This is an appeal filed by the assessee and directed against the order of learned CIT(A)-10, Bengaluru, dated 19.03.2019 for the Assessment Year 2014-15. The ground raised by the assessee in this appeal are as under:-

1. *The order of the learned Commissioner of Income Tax (Appeals)-10, Bengaluru. in ITA. No. /CIT(A)-10 dated 19<sup>th</sup> March, 2019, dismissing the appeal filed by the appellant for the assessment year 2014-15 is infirm in law and contrary to facts and circumstances of the case.*
2. *The learned Assessing Officer erred in completing the assessment without affording a reasonable opportunity to the appellant for representing the case and as such, the order is infirm in law.*
3. *The learned First Appellate Authority erred in disposing of the appeal without affording a reasonable opportunity to the appellant for representation and as such, the impugned order is unsustainable in law.*
4. *The learned lower authorities erred in making an addition of Rs. 30,82,987/- which was the peak credit balance in the Savings Bank Account of the appellant (A/c.No. 20030101100340) with*

*Vijaya Bank, Kannur Branch, Kerala, under Section 69 of the Income Tax Act, 1961.*

5. *For the above and other grounds that may be urged at the time of hearing, the appellant humbly prays that the Hon'ble Income Tax Appellate Tribunal, Bengaluru, may be pleased to vacate the additions sustained by the Commissioner of Income Tax (A)-10, Bengaluru, and allow this appeal.*

2. In the course of hearing, it was submitted by learned AR of the assessee that the impugned order of the CIT(A) is ex-parte qua the assessee. He submitted that it is true that on the last date of hearing fixed by the learned CIT(A) on 18.03.2019, the assessee could not appear before the learned CIT(A) for various reasons but still, the learned CIT(A) should have provided more opportunity to the assessee. Therefore, in the interest of justice, the matter should be restored back to the file of CIT(A) for a fresh decision, after providing reasonable opportunity of being heard to the assessee. He submitted that he gives an undertaking that if the matter is restored back to the file of CIT(A), proper compliance will be made. As against this, the learned DR of the Revenue supported the order of CIT(A). He also submitted that three dates of hearing was fixed by the learned CIT(A) on 21.01.2019, 12.03.2019 and 18.03.2019 and therefore, in the facts of present case, the assessee does not deserve further opportunity.

3. I have considered the rival submissions. I find that it is noted by learned CIT(A) in para 4 of his order that the first date of hearing was fixed on 21.01.2019 and the notice was duly served on the assessee through speed post but there was no response. Second notice was issued by him fixing date of hearing on 12.03.2019 but this notice was unserved on the assessee because the learned CIT(A) himself have recorded that this notice has come back unserved with the postal remark "LEFT". The third notice fixing date of hearing on 18.03.2019 was served on the assessee but there was no response by the assessee. Hence, it is seen that only two notices were served on the

assessee as per this para of the order of learned CIT(A) i.e., the notice of hearing fixed on 21.01.2019 and the notice of hearing fixed on 18.03.2019 and admittedly, there was no compliance of the assessee on both these dates but still I feel that in the interest of justice, one more opportunity should be provided to the assessee and hence, I set aside the order of the CIT(A) and restore the matter back to his file for fresh decision after providing reasonable opportunity of being heard to both the sides. In view of this decision, no adjudication on merit is called for at the present stage and I make no comment on merit.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-  
**(A. K. GARODIA)**  
**Accountant Member**

Bangalore.

Dated: 20<sup>th</sup> December, 2019.

/NS/\*

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.