

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ C ” BENCH: BANGALORE

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.584/Bang/2017
(Assessment Year: 2009-10)

M/s. Azad Automotive Services Pvt. Ltd.,
No.7A, Doddanakkundi Indl. Area, 2nd Stage,
Mahadevapura Post, Bangalore-560 048
PAN

....Appellant

Vs.

Dy. Commissioner of Income Tax,
Circle 11(1), Bangalore.

.....Respondent.

Assessee By:	Shri S.V. Ravishankar, Advocate.
Revenue By:	Shri M.K. Biju, Addl. CIT (D.R)

Date of Hearing :	09.01.2020
Date of Pronouncement :	17.01.2020

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

The assessee has filed an appeal against the order of learned Commissioner of Income Tax (Appeals)-1, Bangalore passed under Section 143(3) and 147 of the Income Tax Act, 1961.

2. At the time of hearing, the learned Authorised Representative submitted that the CIT(Appeals) has not given any finding on the validity of Notice under Section 148 and referred to Ground Nos.2 & 3 of the grounds of appeal. The learned Authorised Representative submitted that the assessee has raised similar grounds before the CIT(Appeals) in Ground Nos.2 & 3 which are as under :

“2. The order of assessment passed by the learned Assessing Officer under Section 143(3) read with section 147 of the Act is bad in law since the mandatory conditions as envisaged in the Act to assume jurisdiction did not exist or having not been complied with and consequently, the reassessment requires to be cancelled under the facts and circumstances of the case.

3. The order of reassessment is bad in law and void ab initio as the learned Assessing Officer had no reason to believe that the income of the appellant has escaped assessment and the said reasons amounted merely reasons to suspect under the facts and circumstances of the case.”

3. The contention of the learned Authorised Representative that though the assessee has made submissions before the appellate authority but there is no finding on this aspect by the CIT(Appeals). Contra, the learned Departmental Representative supported the order of the CIT(Appeals) and could not controvert the submissions of the learned Authorised Representative.

4. We heard the rival contentions and perused the material on record. On hearing the submissions of the learned Authorised Representative and perusal of the material on record, submissions of the learned Authorised Representative are realistic and the assessee has raised the grounds of appeal before the CIT(Appeals)

but the CIT(Appeals) has not given any reason and proper finding. Accordingly, considering the principle of natural justice, we set aside the order of CIT(Appeals) and restore the entire disputed issue to the file of CIT(Appeals) to adjudicate afresh and give a finding on the legal issue and if the assessee does not succeed on legal issue, then give a finding on merit. With this direction, we allow the appeal of the assessee for statistical purposes.

5. In the result the assessee's appeal is allowed for statistical purposes.

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

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER
Dated: 17.01.2020.

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore