

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

**BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.1470/Bang/2017
Assessment year : 2009-10

Kenkere Infra Tech, No.112C, 2 nd Floor, IBH Prakashana, 5 th Main, New Jayadeva Hostel, Commercial Complex, Gandhinagar, Bengaluru-560 009. PAN – AAIFK 9825 H	Vs.	The Income-tax Officer, Ward-5(2)(4), Bengaluru.
APPELLANT		RESPONDENT

Revenue by	:	None
Assessee by	:	Shri Manjeet Singh, Addl. CIT (DR)

Date of hearing	:	16.01.2020
Date of Pronouncement	:	17.01.2020

ORDER

Per B.R Baskaran, Accountant Member :

The appeal filed by the assessee is directed against the order dated 24/3/2017 passed by 1d CIT(A)-5, Bengaluru and it relates to the asst. year 2009-10.

2. In the grounds urged by the assessee, the addition of Rs.2,31,41,000/- relating to unexplained credit in bank account is being contested.

3. None appeared on behalf of the assessee, even though the adjournment was granted on the earlier occasion at the request of the assessee. Hence we proceed to dispose of the appeal ex-parte, without the presence of assessee.

4. We heard ld DR and perused the record. The assessee is engaged in the business of trading in iron ore. The present assessment was completed by the AO u/s 144 r.w.s. 263 of the Act in pursuance of revision order passed by Ld Administrative Commissioner. It was noticed that the assessee has deposited a sum of Rs.2,31,41,000/- into its bank account and the same came to be examined by the assessing officer as per the directions given in revision order. The AO asked the assessee to explain the sources for making deposits. Since no explanation was forthcoming from the assessee, the AO added the above said amount to the total income of the assessee. Before Ld CIT(A), the assessee submitted that it has furnished cash book extracts to the AO and hence deposits stand fully explained. The assessee also furnished copies of cash book extract before ld CIT(A). However ld CIT(A) took the view that the assessee has not taken a specific ground in respect of this addition and further since the ld Administrative CIT, in the proceedings u/s 263 of the Act, has considered the cash book, he confirmed the addition made by the AO.

6. From the grounds of appeal filed by the assessee before ld CIT(A), we noticed that the assessee has raised a specific ground in respect of this addition in para 2.1 of grounds of appeal, which reads as under:-

“2.1 In any case, the ld AO has erred in making on addition of Rs.2,31,41,000/- as unexplained credit in bank account and the ld CIT(A) has erred in confirming the same.”

7. Hence it is noticed that the assessee has raised a specific ground before ld CIT(A). Further in our view, submission of cash book extracts before Administrative CIT in the revision proceedings done u/s 263 of the Act would not bar the ld CIT(A) to examine the same while adjudicating the issue raised before him. Accordingly we are of the view that this issue requires fresh examination at the end of ld CIT(A). Accordingly we set aside the order passed by the ld CIT(A) on this issue and restore the same to his file for adjudicating it afresh after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the Open Court on **17th January, 2019.**

Sd/-
(Beena Pillai)
Judicial Member
Bangalore,
Dated, 17th January, 2019.

Sd/-
(B.R Baskaran)
Accountant Member

/ vms /

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Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore.