

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

**BEFORE SHRI ARUN KUMAR GARODIA, AM
AND
SMT. BEENA PILLAI, JM**

ITA No. 3253/Bang/2018
Assessment Year : 2015 – 16

Shri Diwakaran Surendaran, No. 14, 2 nd Floor, 1 st Cross, Sudhamanagar, Lalbagh Road, Bengaluru - 560027 PAN: AHLPS2927A	vs.	ITO, Ward – 7 (2) (2), Bangalore
APPELLANT		RESPONDENT
Assessee by	:	Shree Gangadhar Sastry K., ITP
Revenue by	:	Shri Kabila H, JCIT DR
Date of Hearing	:	05.02.2020
Date of Pronouncement	:	12.02.2020

ORDER

PER SHRI A.K. GARODIA, AM:

This appeal is filed by the assessee and it is directed against the order of CIT(A) – 7 Bengaluru dated 01.01.2018.

2. Apart from grounds on merit, this is one of the grounds raised by the assessee that the learned CIT (A) was not justified in upholding the assessment order in spite of this that the AO failed to give opportunity after obtaining details u/s 133 (6) which is apparent from this fact alone that the AO confronted the details on 28.12.2017 and passed the order on 29.12.2017.

3. In course of hearing, learned AR of the assessee submitted that it is noted by the AO in Para 5 on page 4 of the assessment order that vide order sheet entry on 28.12.2017, the issue about difference in the amount as per the books of the assessee and reply of two creditors M/s Fine Foot wear (P) Ltd. And M/s SS Impex was specifically raised with the assessee. He submitted that the assessment order is passed by the AO on 29.12.2017 with this finding that the

assessee could not give evidence in this regard. He submitted that from these facts, it is apparent that sufficient opportunity was not provided by the AO and in spite of this, learned CIT (A) did not admit additional evidence. He submitted that in the interest of justice, the matter should be restored to AO for fresh decision.

4. We have considered the rival submission. In the interest of justice and in the facts of the present case, we admit the additional evidence and restore the entire matter back to AO for a fresh decision after considering the additional evidence and after providing reasonable opportunity of being heard to the assessee. In view of this decision, no adjudication on merit is called for at the present stage.

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

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-

(BEENA PILLAI)

Judicial Member

Bangalore,

Dated, the 12th February, 2020.

/NS/ AKG

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

Sd/-

(ARUN KUMAR GARODIA)

Accountant Member

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.