

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

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA Nos.762 and 763/Bang/2015
Assessment year : 2007-08 and 2008-09

Shri. Asadulla Khan, #165, 5 th Cross, Gandhinagar, Mandya. PAN : AINPA 6942 N	Vs.	Income Tax Officer, Ward - 1, Mandya.
APPELLANT		RESPONDENT

ITA Nos.764 to 766/Bang/2015
Assessment year : 2007-08, 2008-09, 2009-10

Smt. Ayesha Najam, #165, 5 th Cross, Gandhinagar, Mandya. PAN : ADWPN 1511 E	Vs.	Income Tax Officer, Ward - 1, Mandya.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Narendra Sharma, Advocate
Revenue by	:	Shri. Muzaffar Hussain, CIT (DR)(ITAT), Bengaluru Shri. Shahnawaz Ul Rahman, JCIT (DR)(ITAT), Bengaluru

Date of hearing	:	11.02.2020
Date of Pronouncement	:	24.02.2020

ORDER

Per A.K. Garodia, Accountant Member

These 5 appeals are filed by two different but connected assesseees and these are directed against the combined order of learned CIT(A), Mysuru, dated 19.02.2015 in case of Shri. Asadulla Khan for the Assessment Years

2007-08 to 2008-09 and another combined order of learned CIT(A), Mysuru dated 19.02.2015 for Assessment Years 2007-08 to 2009-10 in the case of Smt. Ayesha Najam.

2. It was agreed by both sides that the issue involved is similar and therefore, all these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

3. In the course of hearing, it was submitted by learned AR of the assessee that before going to the merit of the additions made by the AO, the assessee has an objection regarding violation of principles of natural justice in both these cases. He submitted that in both these cases, the assessments were completed under section 144 of the IT Act, 1961 since the assessee could not furnish any details called for during the course of assessment proceedings because Shri. Asadulla Khan was facing criminal charges filed by CBI and all his books of accounts, bank pass book etc. were seized by CBI and therefore, the assessee could not produce any evidence / pass books during the course of assessment proceedings. Thereafter, he pointed out that before CIT(A), these two assesseees furnished cash flow statements but this additional evidence was not admitted by learned CIT(A). He submitted that in the interest of justice, additional evidence should be admitted in the facts of present case because the assessee was not in a position to produce the same before the AO in assessment proceedings and the matter should be restored back to the file of CIT(A) for a fresh decision after considering the additional evidence. Learned DR of the Revenue supported the orders of CIT(A).

3. We have considered the rival submissions and in view of the facts noted above because of which all these assessments were completed by the AO under section 144 of the IT Act, 1961 because the assessee was not in a

position to produce the required document before the AO and also in view of the fact that when additional evidence was submitted by assessee before CIT(A) and the same was not admitted by CIT(A), we feel it proper that in the interest of justice, additional evidence should be admitted. Hence, we admit the additional evidence and restore the matter back to the file of CIT(A) for a fresh decision in all these cases after providing reasonable opportunity of being heard to both sides. In view of this decision, no adjudication on merit is called for at the present stage and we make no comment on merit.

4. In the result, all five appeals of these two assesseees are allowed for statistical purposes.

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

Sd/-
(BEENA PILLAI)
Judicial Member

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

Bangalore,
Dated: 24th February, 2020.
/NS/*

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

By order

Assistant Registrar,
ITAT, Bangalore.