

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Smt. Beena Pillai, JM & Shri O. P. Meena, AM

ITA No.2251/Bang/2019 : Asst. Year 2013-2014

Sri. Prasad Ramakrishnappa Kaniminike, Kaniminike Colony, Kumbalagodu Post, Kengeri Hobli Bangaluru – 560 074. PAN : BGZPK9468C.	Vs.	The Income Tax Officer Ward 3(2)(3) Bangaluru.
(Appellant)		(Respondent)

Appellant by : Sri.G. S. Prashanth, CA
Respondent by : Sri. S. T. Seshadri, JCIT-DR

Date of Hearing : 22.01.2020	Date of Pronouncement : 26.02.2020
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ORDER

Per Smt. Beena Pillai, JM :

Present appeal has been filed by assessee against order dated 27.08.2019, passed by Ld. CIT (A)-3, Bangalore, on following grounds of appeal:

“1. The order of the authorities below in so far as these are against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant’s case.

2. The appellant denies himself to be assessed on a total income of Rs.1,89,55,740/- as against Rs.4,77,000/- returned by the appellant under the facts and circumstances of the case.

3. (a) The learned CIT(A) grossly erred in not accepting the additional evidence filed by the appellant as per Rule 46A of the Income Tax Rules, 1962 under the facts and circumstances of the case.

(b) The learned CIT(A) failed to appreciate that the assessing officer completed the assessment proceedings in a hurried manner and sufficient opportunity was not provided to the appellant to furnish the details / documents under the facts and circumstances of the case.

(c) The learned CIT(A) failed to appreciate the fact

that the powers of the appellate commissioner are coterminous with that of the assessing officer under the facts and circumstances of the case.

(d) The learned CIT(A) ought to have admitted the additional evidences furnished by the appellant and adjudicated the matter on merits under the facts and circumstances of the case.

4. *(a) The learned assessing officer erred in making an addition of Rs.1,83,78,746/- by holding that the appellant has failed to satisfactorily explain increase in capital under the facts and circumstances of the case.*

(b) The authorities below failed to appreciate that increase in capital is on account of the loans and advances received which were wrongly credited to capital account under the facts and circumstances of the case.

(c) The authorities below failed to appreciate that there were no errors / mistakes in the re-drafted balance sheet furnished by the appellant and the authorities below ought to have taken cognizance of the re-drafted balance sheet under the facts and circumstances of the case.

5. *The authorities below erred in disallowing a sum of Rs.1,00,000 being deductions claimed under Chapter VI-A of the Act under the facts and circumstances of the case.*

6. *The appellant denies himself liable to be levied to interest under section 234A and 234B of the Act and further the computation of interest was not provided to the appellant as regards to the rate, period and method of calculation of interest under the facts and circumstances of the case. The appellant expressly urges that the period of levy of interest is not in accordance with section 234B of the Act.*

7. *Without prejudice, the interest levied under section 234B of the Act requires to be waived off under the facts and circumstances of the case.*

The appellant craves leave to add, alter, delete or substitute any of the grounds urged above.

In view of the above and other grounds that may be urged at the time of the hearing of the appeal, the appellant prays that the appeal may be allowed in the interest of justice and equity.”

2. AT the outset it has been submitted by Ld. AR that Ld. CIT failed to appreciate additional evidence filed during first appellate proceedings in support of his claim.
3. Assessee having lost in first appeal and in order to get a fair deal and substantial justice from this Tribunal for deletion of the addition made by Ld. AO has mustered relevant

additional evidences and compiled it into paper books filed before us as recorded above.

4. We have examined said evidences and are satisfied that in order to do substantial justice to the appellant- assessee the additional evidences as compiled in the paper books filed before us has to be admitted in terms of Rule 29 of the ITAT Rules and we therefore, admit the same.

5. After pondering over the matter, we deem it fit and proper to remit the case to the file of Ld. CIT(A) with a direction to receive the said additional evidences which have been filed before us by assessee. We further direct Ld. CIT(A) to process the same by conducting a valid, proper and thorough enquiry and then to arrive at a correct decision but not without affording a fair and reasonable opportunity of hearing to assessee in accordance with law.

6. We therefore setaside the appeal back to Ld. AO to decide issues afresh having regards to additional evidence filed by assessee

In the result appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in open court on 26th February, 2020.

Sd/-
(O.P.Meena)
ACCOUNTANT MEMBER

Sd/-
(Smt.Beena Pillai)
JUDICIAL MEMBER

Bangalore ;
Dated : 26th February, 2020.

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-3, Bengaluru.
4. The Pr.CIT-3, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst. Registrar/ITAT, Bangalore

		Date	Initial	
1.	Draft dictated on			Sr.PS
2.	Draft placed before author			Sr.PS
3.	Draft proposed & placed before the second member			JM/AM
4.	Draft discussed/approved by Second Member.			JM/AM
5.	Approved Draft comes to the Sr.PS/PS			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS
7.	Date of uploading the order on website			
8.	If not uploaded, furnish the reason			
8.	File sent to the Bench Clerk			Sr.PS
9.	Date on which file goes to the AR			
10.	Date on which file goes to the Head Clerk.			
11.	Date of dispatch of Order.			
12.	Draft dictation sheets are attached			Sr.PS