

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“ B ” BENCH, BENGALURU**

**BEFORE SHRI N.V.VASUDEVAN, VICE PRESIDENT  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.542/Bang/2019  
(Assessment Year : 2013-14)

<b>M/s JSR Logistics, No.82, Noor, Manzil, Hussain Nagar, Raghavendra Colony, 1st Stage, Ballari-583 101</b>	Vs.	<b>The ACIT, Circle-1, Aayakar Bhavan, Staff Road, Ballari-583 102</b>
<b>PAN/GIR No.AAHF2764M</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

<b>Appellant by :</b>	<b>Shri Siva Prasad Reddy, IRS (Retd.)</b>
<b>Respondent by :</b>	<b>Smt. R.Premi, JCIT</b>

<b>Date of Hearing</b>	<b>04-03-2020</b>
<b>Date of Pronouncement</b>	<b>06-03-2020</b>

**ORDER**

**PER PRADIP KUMAR KEDIA : AM**

The captioned appeal has been filed at the instance of assessee against the order of the CIT(A), Gulbarga dated 28-09-2018 arising from the order of assessment passed by the AO under sec.143(3) r.w.s.144 of the IT Act, 1961 (The Act) concerning assessment year 2013-14.

2. As per its grounds of appeal, the assessee has sought to assail the order of CIT(A) on many grounds which *inter-alia* includes violation of principles of

natural justice as a consequence of non-consideration of remand report from the AO in the facts of the case.

3. When the matter was called for hearing before the Tribunal, the ld.AR for the assessee submitted at the outset, that this appeal is belated and sought condonation of delay of 85 days in filing the appeal before the Tribunal. The ld. AR for the assessee pointed out that the delay has occurred because the assessee had moved certain rectification petition under sec.154 of the Act before the CIT(A) and thus entertained a belief that grievance will be shorted out by the CIT(A). However, when the rectification application was not disposed of within a reasonable time, the assessee moved the instant appeal before the Tribunal without waiting further. We find that sufficient cause has been shown by the assessee and thus, it deserves condonation of delay. No prejudice has caused to the revenue by such small delay and hence, the delay is condoned.

4. At the further outset, the ld. AR for the assessee submitted that the assessment in the present case was carried out *ex-parte* under sec.144 of the Act.

5. Aggrieved by the *ex-parte* order making huge additions in the hands of the assessee, the assessee preferred appeal before the CIT(A) and requisite evidences were also placed before the CIT(A) for its consideration. The CIT(A), in turn, forwarded the aforesaid information and details to the AO vide letter dated 10-11-2016. A direction was given to the AO to verify the submission of the assessee and submit a report thereon to enable the CIT(A) to complete the appellate proceedings. However, without waiting for the receipt of report from the AO and without assigning any reason for doing so, the CIT(A) proceeded to pass order against the assessee by merely reiterating the observations of the AO. The ld.AR thus submitted that the order of the CIT(A)

is vitiated for non-consideration of the remand report called for by him from the AO resulting in grave prejudice to the assessee. The AR accordingly urged for setting aside the order of the CIT(A).

6. The Id. DR on the other hand placed reliance on the order of the CIT(A) without making any further comments.

7. In the facts of the case narrated above on behalf of the assessee, we find considerable merit in the plea of the assessee. A perusal of the order of the CIT(A) clearly shows that the first appellate order has been passed without reference to any remand report from the AO. In the instant case, where the CIT(A) has considered it expedient to refer the matter to the AO seeking verification of the details and documents and report thereon, it was incumbent upon him to address this aspect in the appellate order as to why the remand report is no longer considered necessary or how the remand report has been duly considered. The CIT(A) has done none of this. The action of the CIT(A) thus, clearly appears to be arbitrary and perfunctory. Judicial propriety demanded that CIT(A) addresses the issue of remand report sought and takes into account the report so-called for from the AO and pass a speaking order thereafter. The order of the CIT(A) is thus clearly bad in law and requires to be set aside.

8. We therefore, restore all the issues in the captioned appeal to the file of the CIT(A) for *denovo* consideration in accordance with law after proper opportunity to the assessee.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

**This Order pronounced in Open Court on 06-03-2020**

**Sd/-**

(N.V.VASUDEVAN)  
VICE PRESIDENT

Place: Bengaluru

Dated: 06-03-2020

am

**Sd/-**

(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

Copy of Order Forwarded to:-

1. Revenue
2. Assessee
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Bengaluru .
6. Guard file.

By order

Asst. Registrar

