

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ C ” BENCH: BANGALORE

**BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA Nos.2267 & 2268/Bang/2018
(Assessment Years : 2010-11 & 2011-12)

M/s. Vitari Distributors Pvt. Ltd.,
No.350-27, 2nd Floor, 6th Main Road,
Lakkasandra Extension, Bangalore-560 030

....Appellant

Vs.

Dy. Commissioner of Income Tax,
Circle 12(5), Bangalore.

.....Respondent.

Assessee By:	Shri R.E. Balasubramanyam, C.A.
Revenue By:	Shri Pradeep Kumar, CIT (D.R)

Date of Hearing :	16.03.2020.
Date of Pronouncement :	17.03.2020.

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

These are the appeals filed by the assessee against separate orders of Commissioner of Income Tax (Appeals), Mysore passed under Section 143(3) and 250 of the Income Tax Act, 1961 ('the Act') for the Asst Year 2010-11&2011-12.

2. At the time of hearing, the learned Authorized Representative submitted that the CIT (Appeals) has passed exparte orders for the Asst Year 2010-11&2011-12

without considering the submissions of the assessee and prayed for one more opportunity of hearing to substantiate the case before the appellate authority. Contra, the learned Departmental Representative supported the orders of the CIT (Appeals).

3. We heard the rival contentions and perused the material on record. On perusal of the CIT(Appeals) order, we find that the assessee was provided opportunity of hearing on 14.07.2014. But, when a query was raised to the learned AR for the reasonable cause and reasons for non-appearance on date of hearing, the explanations of IdAr, that notice of hearing was not received by the assessee and therefore the assessee was not aware of date of posting of the appeal. Considering the principles of natural justice and the reasons envisaged by learned AR, we consider it appropriate to restore the entire disputed issue to the file of the CIT(A) but considering the facts on record with respect to non-appearance of the assessee or authorized representative in spite of posting the case in appellate proceedings. Therefore, we are of the opinion that the assessee should be provided an opportunity of hearing with payment of cost of Rs.2,000/- to the Income-tax Department within a period of one month from the date of receipt of this order. Subject to the payment of above cost, we set-aside the order of Cit(A) and restore the entire disputed issue to the file of the CIT(A) to adjudicate on merits a fresh and pass a speaking order. Further, the assessee shall submit proof of payment of

cost with Tribunal and appellate authority. It is nevertheless to mention that the CIT(A) should be provided reasonable opportunity to the assessee to file details and the assessee shall co-operate in submitting the information for early disposal of the appeal and we order accordingly.

6. In the result, the assessee's appeals for the Asst Year 2010-11&2011-12 are treated as allowed for statistical purposes.

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

Sd/-

(B.R. BASKARAN)
ACCOUNTANT MEMBER

Dated: 17.03.2020.

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore