

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

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI B R BASKARAN, ACCOUNTANT MEMBER

ITA No.802/Bang/2018
Assessment year : 2014-15

Sri Pollepalli Ram Mohan, No.17, 3 rd Cross, Vidyapeeta Main Road, Balaji Layout, Bangalore – 560 085. PAN: AEVPR 3604L	Vs.	The Income Tax Officer, Ward 7(2)(5), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri L. Mahesh Kumar, CA
Respondent by	:	Smt. R. Premi, Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	29.09.2020
Date of Pronouncement	:	05.10.2020

ORDER

Per N.V. Vasudevan, Vice President

This appeal by the assessee is against the order dated 4.1.2018 of the CIT(Appeals)-7, Bengaluru relating to assessment year 2014-15.

2. The assessee is an individual who filed return of income for the AY 2014-15 declaring a total income of Rs.5,66,420. In the course of assessment proceedings u/s. 143(3) of the Income-tax Act, 1961 [the Act], the AO obtained information u/s. 133(6) of the Act from Shri Subramanyeshwara Co-operative Bank Ltd., which revealed that the assessee had deposited a sum of Rs.52,40,000 in his SB account. Since no expenditure with regard to the source was furnished by the assessee, the AO added the aforesaid sum to the total income of the assessee as

income under the head 'income from other sources'. Against the aforesaid addition, the assessee preferred appeal before the CIT(Appeals).

3. Before the CIT(Appeals), the hearing of the appeal was fixed on 7.2.12017. On that date, the Id. AR of assessee prayed for one more opportunity before the AO to explain his case. The CIT(Appeals) held that since the written submissions nor any supporting evidence was filed, it was not possible for him to remand the matter to the AO. The CIT(A) found that there was no explanation by the assessee and therefore the addition made by the AO was sustained by the CIT(Appeals).

4. Aggrieved by the order of CIT(Appeals), the assessee has preferred the present appeal before the Tribunal.

5. The assessee has filed a copy of the order of CIT(Appeals) which is not complete. The assessee has, however, filed an affidavit before us along with a complete copy of the order of CIT(Appeals), against which the present appeal has been filed. The complete copy of the order of CIT(Appeals) is taken on record.

6. The Id. counsel for the assessee submitted that the assessee was carrying on business of wood consulting and training. The factory of the firm, in which the assessee was a partner, was gutted by fire on 11.6.2011 and therefore the firm face intense financial crunch. He also submitted that the bank account in question was a joint account and therefore the addition made of the entire deposits in the account cannot be sustained. Copy of the letter of the Bank certifying that the SB A/C NO.12008 is a joint account in the name of the assessee and his wife has been filed before us. It was also submitted that there were cash withdrawals from the bank account and this aspect has been omitted. It was also submitted that the loans obtained for the purpose of business had been the source of deposit

into the bank account. It was also submitted that the peak credit if worked out will be negative and no addition can be made. He submitted that because of the fire in the factory and because of litigation connected with the factory and illness of family members, the assessee could not represent properly before the lower authorities. The Id. counsel for the assessee accordingly prayed that the assessee may be given an opportunity to substantiate the source of funds and cash deposit in the bank account which was added as unexplained income by the AO and confirmed by the CIT(Appeals).

7. After considering the rival submissions, we are of the view that the events at the time of assessment proceedings as well as appellate proceedings, the assessee was prevented by reasonable cause from producing the required evidence. Considering the facts and circumstances

8. of the case, we are of the view that assessee deserves one more opportunity before the AO. Accordingly, we set aside the order of CIT(Appeals) and remand the issue with regard to the impugned addition for *de novo* consideration, after affording assessee opportunity of being heard. The assessee will cooperate and furnish the required details before the AO with default.

9. In the result, the appeal by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 5th day of October, 2020.

Sd/-
(B R BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(N V VASUDEVAN)
VICE PRESIDENT

Bangalore,
Dated, the 5th October, 2020.

/Desai S Murthy/

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.