

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

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

ITA Nos.3176 to 3177/Bang/2018

Assessment year : N. A.

M/s Rani Chenamma University, National Highway 04, Vidya Sangama, Bhootarananahatti, Belgavi – 561156. PAN : AABAR0615C	V s.	DIT (Intelligence and Criminal Investigation), Bengaluru.
APPELLANT		RESPONDENT
Assessee by	:	Shri Ashok A. Kulkarni, Advocate
Revenue by	:	Smt. Vandana Sagar, CIT DR
Date of hearing	:	14.10.2020
Date of Pronouncement	:	20.10.2020

ORDER

PER ARUN KUMAR GARODIA, A. M.:

These two appeals are filed by the assessee and the same are directed against two separate orders of learned CIT(E) Bengaluru dated 14.03.2018 passed u/s 12A and dated 26.09.2018 passed u/s 10 (23C) (vi). Both these appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. First, we take up the appeal in the proceedings u/s 12A in ITA No. 1277/B/2018. Learned AR of the assessee submitted that certain new documents being Audited Accounts for F. Y. 2013 – 14 to F. Y. 2016 – 17 are submitted on pages 26 to 41 of the paper book. He submitted that as per the impugned order passed u/s 12A, this is the main objection of

CIT (E) that the assessee has not submitted audited accounts. He submitted that therefore, this additional evidence should be admitted and the matter may be restored to CIT (E) for a fresh decision. As against this, learned DR of the revenue submitted that these audited accounts are dated 24.07.2020 and as per section 12A (1) (b), the assessee was required to file return of income along with audited accounts because the assessee is in receipt of income in excess of maximum amount not chargeable to tax and therefore, these audited accounts audited in July 2020 are not relevant. At this juncture, the bench observed that in the impugned order passed by the CIT (E) u/s 12A, he is referring to Rule 12A (b) in this regard and not to section 12A (1) (b) and it is also seen that application for registration u/s 12A was filed by the assessee on 22.09.2017 and first notice was issued by the learned CIT (E) on 01.03.2018 and the impugned order was passed on 14.03.2018 and therefore, it appears that sufficient opportunity of hearing was not provided to the assessee. This was the proposition put forward by the bench that under these facts, it is proper to remand the matter to CIT (E) for a fresh decision. Learned AR of the assessee agreed to this proposition put forward by the bench. Learned DR of the revenue although did not agree to this proposition put forward by the bench but she also could not say that any prejudice will be caused to the revenue.

3. We have considered the rival submissions. In view of above discussion, we set aside the impugned order passed by learned CIT(E) Bengaluru dated 14.03.2018 passed u/s 12A and remand the matter back to him for a fresh decision after affording adequate opportunity of being heard to the assessee.

4. Now, we take up the second appeal in the proceedings u/s 10 (23C) (vi) in ITA No. 3176/B/2018. Learned AR of the assessee submitted that this appeal should also be remanded to CIT (E) because non production of audited accounts is an issue in this appeal also and in para 11 of the impugned order passed u/s 10 (23C) (vi), reference is made to the order passed u/s 12A and in these proceedings also, sufficient opportunity of being heard was not afforded to the assessee by the learned CIT (E) and only one notice was issued in September 2018 which was replied by the assessee on 17.09.2018 and the impugned order was passed on 26.09.2018 and therefore, this appeal should also be remanded to CIT (E). Learned DR of the revenue supported the order passed by CIT (E) u/s 10 (23C) (vi).

5. We have considered the rival submissions. In view of above discussion, we set aside the impugned order passed by learned CIT(E) Bengaluru dated 26.09.2018 passed u/s 10 (23C) (vi) also and remand this matter also back to him for a fresh decision after affording adequate opportunity of being heard to the assessee.

6. In the result, both appeals of the assessee are allowed for statistical purposes.

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

Sd/-
(N. V. VASUDEVAN)
Vice President

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

Bangalore,
Dated: 20th October, 2020.
/NS/*AKG

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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.