

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

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 1221/Bang/2019
Assessment Year: 2009-10

Deputy Commissioner of Income-tax Circle-1(1)(2) Bangalore PAN NO : AACCB8552F	Vs.	M/s. Bateman Engineering India Pvt. Ltd. Brigade Software Park No.42,27 th Cross, 2 nd Stage Banashankari Bengaluru-560070.
APPELLANT		RESPONDENT

Appellant by	:	Shri Muzaffar Hussain, D.R.
Respondent by	:	N O N E

Date of Hearing	:	11.03.2020
Date of Pronouncement	:	11.03.2020

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The revenue has filed this appeal challenging the order dated 01-12-2017 passed by Ld CIT(A)-1, Bengaluru and it relates to the assessment year 2009-10.

2. None appeared on behalf of the assessee. The notices sent by the Registry were returned by the postal department with the noting that the addressee has left the place. On one occasion, the Ld DR was directed to serve the notice, but the details of service of notice were not

submitted. The Ld D.R submitted that the issues contested by the revenue need to be restored to the file of Ld CIT(A), since the Ld CIT(A) has adjudicated the issues by examining certain fresh documents without confronting them to the assessing officer. Hence we proceed to dispose of the appeal ex-parte, without the presence of the assessee.

3. The Ld D.R submitted that the revenue is challenging the decision of Ld CIT(A) in excluding certain comparable companies. Inviting our attention to the order passed by Ld CIT(A), the Ld D.R submitted that the Ld CIT(A) has admitted certain evidences furnished before him in respect of above said companies and it is not clear as to whether those evidences were furnished to the assessing officer by the assessee. He submitted that the Ld CIT(A) also did not confront them with the assessing officer. Accordingly he submitted that there is violation of Rule 46A of the Income tax Rules. Accordingly he submitted that all the issues may be restored to the file of Ld CIT(A) for examining them afresh by duly confronting the new evidences furnished by the assessee to the AO/TPO.

4. We find merit in the submissions made by Ld D.R. Accordingly, we set aside the order passed by Ld CIT(A) and restore all the issues contested by the revenue to the file of Ld CIT(A) for adjudicating them afresh by duly confronting the evidences furnished by the assessee with the assessing

officer. The report, if any, furnished by the assessing officer may be confronted with the assessee. After hearing both the parties, the Ld CIT(A) may take appropriate decision in accordance with the law.

5. In the result, the appeal of the revenue is treated as allowed for statistical purposes.

Order pronounced in the open court on 11.3.2020.

Sd/-

(Beena Pillai)
Judicial Member

Sd/-

(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 11th March, 2020.

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.