

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH ' C '**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

I.T.A. Nos.1241 to 1247/Bang/2019
(Assessment Years : 2006 – 07 to 2012 – 13)

M/s. The Nehrunagar Co – operative Bank Limited,
No. 172, 1st Main, Seshadripuram,
Bengaluru – 560 020.

PAN : AADFT2413K

.... Appellant.

Vs.

DIT, (Intelligence & Criminal Investigation),
Bengaluru.

..... Respondent.

Assessee By : Shri S. V. Ravishankar, Advocate
Revenue By : Smt. R. Premi, JCIT DR

Date of Hearing : 19.02.2020.

Date of Pronouncement : 20.02.2020.

O R D E R

Per Bench :

These seven appeals are filed by the assessee and these are directed against a combined order of learned CIT (A) – 13 Bengaluru dated 29.03.2019 for A. Ys. 2006 – 07 to 2012 – 13. These appeals were heard together and are being disposed of by way of this common order for the sake of convenience.

2. Although 17 grounds are raised by the assessee in each year and the assessee has also raised two additional grounds in each year but as per Ground No. 6 in each year, this is a grievance of the assessee that Rule

114 E (2) of Income Tax Rules, 1962 is not applicable to the assessee in these years because the present assessee is neither a 'banking company' nor 'a bank or banking institution' referred to in section 51 of Banking Regulation Act, 1949 and co operative bank is included in the class of persons only with effect from 01.04.2016 and therefore, the assessee was under the bonafide belief that the assessee is not required to file the AIR. The bench pointed out in course of hearing that this issue was raised by the assessee before CIT (A) also as per Ground No. 3 raised before CIT (A) but as per the impugned combined order of CIT (A), this Ground No. 3 is not decided by CIT (A). The bench observed that under these facts, the entire matter has to go back to CIT (A) for fresh decision including Ground No. 3 raised before CIT (A) if the assessee wants to press Ground No. 6 raised before the tribunal. In reply, it was submitted by the learned AR of the assessee that the assessee wants to press all grounds raised before the tribunal but the matter may be remanded to CIT (A) only to decide Ground No. 3 raised before CIT (A) and all other grounds except Ground No. 6 raised before the tribunal may be decided. Learned DR of the revenue supported the order of CIT (A) but she also agreed that Ground No. 3 is not decided by CIT (A).

3. We have gone through the orders of the lower authorities and considered the arguments of both sides. We find that as per Ground No. 3 raised before CIT (A) and Ground No. 6 raised before the tribunal, this is the argument of the assessee that Rule Rule 114 E (2) of Income Tax Rules, 1962 is not applicable to the assessee in these years because the present assessee is neither a 'banking company' nor 'a bank or banking

institution' referred to in section 51 of Banking Regulation Act, 1949 and co operative bank is included in the class of persons only with effect from 01.04.2016 and therefore, the assessee was under the bonafide belief that the assessee is not required to file the AIR. This aspect of the matter goes to the root and hence, we feel that learned CIT (A) should have decided this aspect first which was raised before him as per Ground No. 3. Since, Ground No. 3 is not decided by CIT (A), we feel it proper to remand the entire matter in all years to CIT (A) for a fresh decision with the direction that he should first decide Ground No. 3 and if the assessee succeeds on this ground than no other aspect survives for his decision but if the assessee fails on this Ground No. 3 then all remaining aspects should be decided afresh by way of a speaking and reasoned order. Need less to say, learned CIT (A) should provide reasonable opportunity of being heard to both sides. In view of this decision, at present, no adjudication is called for on various grounds raised by the assessee.

4. In the result, all seven appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-

(PAVAN KUMAR GADALE)
Judicial Member

Bangalore,

Dt. .02.2020.

*NS

Sd/-

(A.K. GARODIA)
Accountant Member

Copy to :

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

Asst. Registrar
Income Tax Appellate Tribunal
Bangalore.