

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "A", BANGALORE**

Before Shri Chandra Poojari, AM & Shri George George K, JM

ITA No.44/Bang/2020 : Asst.Year 2012-2013

Sri.Chinnappa Venkatachalapathi SD-6, 518, 3 rd "A" Main Road OMBR Layout, Chikkabanaswadi Bengaluru – 560 043. PAN : ACDPV0843P.	v.	The Dy.Commissioner of Income-tax, Circle 6(3)(1) Bengaluru.
(Appellant)		(Respondent)

Appellant by : Sri.H.Guruswamy, ITP

Respondent by : Sri.Kannan Narayanan, JCIT-DR

Date of Hearing : 13.01.2021	Date of Pronouncement : 13.01.2021
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ORDER

Per George George K, JM

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 13.11.2019. The relevant assessment year is 2012-2013.

2. The grounds raised read as follows:-

(i) *The impugned appellate order dated 13.11.2019 passed by the Ld.CIT(A), Bangalore-13 is opposed to law, facts and circumstances of the case.*

(ii) *The Ld.CIT(A) has dismissed the appeal by passing an ex parte order on the ground of non appearance of the Appellant and non furnishing of any written submissions.*

(iii) *The Ld.CIT(A) has not adjudicated the grounds of Appeal on merits of the case.*

(iv) *The Ld.CIT(A) has mentioned the issuance of Notices as per para 4 of the Appellate Order, but the date of service has not been mentioned since the Appellant has vacated the house No.228/1, 3rd Main Road, OMBR Layout, Bangalore, and shifted to New flat No.SD-6, 518, 3rd A Main, GMBR Layout, Bangalore.*

(v) *The Appellant craves leave to add, alter, amend and delete any of the grounds at the time of hearing.*

3. The brief facts of the case are as follow:

The assessee an individual is a developer of lands, forming layouts and selling the sites. For the assessment year 2012-2013, the return of income was filed on 17.12.2012 disclosing an income of Rs.4,39,790. The assessee filed revised return declaring total income of Rs.87,68,200. The assessment was taken up for scrutiny by issuance of notice u/s 143(2) of the I.T.Act. The assessment u/s 143(3) of the I.T.Act was completed by determining the total taxable income at Rs.2,87,68,300.

4. Aggrieved by the assessment, the assessee preferred an appeal to the first appellate authority. The CIT(A) dismissed the appeal *in limine* for want of prosecution.

5. Aggrieved by the order of the CIT(A), the assessee has preferred this appeal before the Tribunal. It was submitted by the learned AR that the hearing notice before the CIT(A) was not served on the assessee, since the assessee had vacated the house and shifted to a new flat, viz., OMBR Layout, Bangalore. It was stated that non-appearance before the CIIT(A) was on account of the above said non-service of notice and prayed that the issues raised in the appeal may be restored to the CIT(A) as a last chance, in the interest of justice and equity.

6. The learned Departmental Representative submitted that inspite of several hearing notices, the assessee was not present, and hence, the CIT(A) is justified in passing an *ex parte* order.

7. We have heard rival submissions and perused the material on record. It is submitted that the assessee had vacated the premises on which the hearing notice before the

CIT(A) was served. Though number of hearing dates were given by the CIT(A), since there was non-appearance, the CIT(A) dismissed the appeal of the assessee. We are of the view that in the interest of justice and equity one more opportunity should be granted to the assessee. Accordingly, the issues raised in the appeal is restored to the files of the CIT(A). The assessee shall cooperate with the Revenue and shall not seek unnecessary adjournment. The CIT(A) shall pass orders after affording reasonable opportunity of hearing to the assessee. It is ordered accordingly.

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

Order pronounced on this 13th day of January, 2021.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 13th January, 2021.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-13, Bangalore.
4. The Pr.CIT-6, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore