

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BANGALORE BENCHES “SMC-C”, BANGALORE**

**Before Shri George George K, Judicial Member**

ITA No.9/Bang/2021 : Asst.Year 2012-2013

Sri.Gaurav Kanaujia E-18, 1004, Sandeep Vihar (AWHO), White Field, Hoskote Road, Kadugodi Bangalore – 560 067. <b>PAN : AKZPK3996N.</b>	v.	The Income Tax Officer Ward 5(3)(5) <b>Bangalore.</b>
(Appellant)		(Respondent)

Appellant by : Sri.Balram R Rao, Advocate  
Respondent by : Sri.Ganesh R.Ghale, Standing Counsel

<b>Date of Hearing : 03.03.2021</b>	<b>Date of Pronouncement : 03.03.2021</b>
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**ORDER**

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 13.10.2020. The relevant assessment year is 2012-2013.

2. There is a delay of 40 days in filing this appeal before the Tribunal. The assessee has filed a petition for condonation of delay and also an Affidavit stating therein the reasons for the belated filing of the appeal. I have perused the reasons stated in the Affidavit. I am of the view that there is no latches on the part of the assessee and there is sufficient cause for filing this appeal belatedly. Hence, I condone the delay of 40 days in filing this appeal and proceeded to dispose of the appeal on merits.

3. The grounds raised read as follow:-

*“1. On the facts and in the circumstances of the case, the learned CIT Appeals erred in upholding the order of the Assessing Officer in the manner in which he did.*

*2. The learned CIT(A) erred, in dismissing the appeal without providing sufficient opportunity to the Appellant.*

*3. The learned CIT(A) erred, in upholding the disallowance of Rs.1,74,800 u/s 10(13A) of the Act.*

*4. The learned CIT(A) erred, in upholding the disallowance of Rs.5,44,144 being amount withdrawn from Employees Provident Fund.*

*5. The learned CIT(A) erred, in upholding interest u/s 234B of the Act amounting to Rs.98,172.*

*6. For these and such other grounds that may arise at the time of hearing the appellant prays that the appeal may please be allowed.”*

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

The assessee is an individual, having salary and interest income. For the assessment year 2012-2013, the return of income was filed on 30.07.2012 declaring total income of Rs.6,06,292. 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 vide order dated 26.03.2015. In the assessment completed, the A.O. disallowed the following claims of the assessee:-

(i) Disallowance of exemption u/s 10(13A) of the I.T.Act amounting to Rs.1,74,800.

(ii) Addition under the head “Salary” Rs.5,42,144.

5. Aggrieved by the additions, the assessee preferred appeal to the first appellate authority. Since there was no proper representation before the CIT(A), the appeal of the assessee was

dismissed. The CIT(A) held that inspite of many opportunity given to the assessee, the relevant documents and evidences were never furnished, hence, the additions are confirmed.

6. Aggrieved by the order of the CIT(A), the assessee has preferred this appeal before the Tribunal. The learned AR submitted that the CIT(A) has erred in dismissing the appeal without providing sufficient opportunity to the assessee. The learned AR submitted that the assessee had sought for adjournment of the hearing on 12.10.2020 and the adjournment was not noted by the CIT(A). It was submitted that all documents / evidences regarding disallowance / additions are available with the assessee, hence one more opportunity may be provided, in the interest of justice and equity.

7. The learned Standing Counsel strongly supported the orders of the Income Tax Authorities.

8. I have heard rival submissions and perused the material on record. Two additions are involved in this appeal, namely, (i) denial of claim u/s 10(13A) of the I.T.Act and (ii) addition under the head "salary". The learned AR claims that the assessee sought for adjournment of hearing before the CIT(A) on 12.10.2020, however, the same was not granted and the appeal was decided against the assessee, since there was no evidence / documents for proving the claim of the assessee. The learned AR submits that there are documents / evidences available for proving the claim of the assessee. I am of the view

in the interest of justice and equity, one more opportunity ought to be granted to the assessee to prove his case. Accordingly, the issues raised in this appeal are restored to the files of the A.O. for fresh consideration. The assessee shall cooperate with the Department and shall not seek unnecessary adjournments. The assessee shall produce the necessary documents/ evidences to prove his case before the A.O. The Assessing Officer shall dispose of the matter in accordance with law after affording a reasonable opportunity of hearing to the assessee. It is ordered accordingly.

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

Order pronounced on this 03<sup>rd</sup> day of March, 2021.

**Sd/-  
(George George K)  
JUDICIAL MEMBER**

Bangalore; Dated : 03<sup>rd</sup> March, 2021.  
Devadas G\*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-12, Bangalore.
4. The Pr.CIT-5, Bangalore.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore