

IN THE INCOME TAX APPELLATE TRIBUNAL

“B” BENCH: BANGALORE

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.2425/Bang/2019
Assessment Year: 2016-17

Shri G.M Muralidhar (HUF) By Manager, Dakshayani Muralidhar, No.733, 14 th Main, 18 th Cross, BSK 2 nd Stage, Bengaluru-560 070. PAN NO : AAFHG 7513 K	Vs.	The Income-tax Officer, Ward-7(2)(4), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Smt. Suman Lunkar, Advocate
Respondent by	:	Shri Priyadarshi Mishra, Addl. CIT (DR)

Date of Hearing	:	25.06.2021
Date of Pronouncement	:	14.07.2021

O R D E R

PER BEENA PILLAI, JUDICIAL MEMBER:

Present appeal has been filed by assessee against order dated 31/10/2019 passed by the Ld.CIT(A)-7, Bangalore for assessment year 2016-17.

2. The Ld.AR submitted that, the Karta of assessee deceased on 09/11/2017, leaving his wife as legal heir, who was unaware of the financial transactions of the HUF. He submitted that the assessment order was passed under section 144 of the Act, as

none appeared on behalf of assessee. On receipt of the assessment order, the legal heir of the Karta, being his wife filed appeal before the Ld.CIT(A).

2.1 Before the Ld.CIT(A), the legal heir of assessee failed to appear even after repeated notices being issued. The Ld.CIT(A) while dismissing the appeal noted that no written submission was filed before the Ld.AO and the notices issued by the Ld.AO was ignored by the assessee.

3. Aggrieved by the order of Ld.CIT(A), assessee is in appeal before us now.

3.1 At the outset, the Ld.AR submitted that, the legal heir of assessee is absolutely unaware about the activities that was carried out by Karta of assessee. He submitted that assessee may be granted one more opportunity wherein the legal heir could file all requisite details in order to substantiate the claim of assessee.

4. On the contrary the Ld. DR supported the orders passed by authorities below.

5. We have perused submissions advanced by both sides in light of records placed before us.

5.1 We note that during the assessment proceedings the Karta of assessee demised, and wife being the legal heir could not step into the shoes of her husband. Subsequently, as the procedures under the Act was made aware to the wife and she filed appeal against the assessment order before Ld.CIT(A) on behalf of her deceased husband. It cannot be presumed that she would have known and explained the transactions that were under question

by the Ld. AO. Ld. CIT(A) without giving proper opportunity and without hearing the assessee dismissed the appeal by confirming the assessment order so passed. Such orders in our opinion cannot be upheld as Ld. CIT(A) has passed an order without following due process of law. We therefore remit this issue back to the Ld. AO to carry out denovo of assessment. Assessee being represented by the wife of deceased Karta is directed to appear and file all requisite details as called for. The Ld.AO shall then carry out necessary verification and consider the claim in accordance with law. Needless to say that proper opportunity of being heard must be granted to assessee in accordance with law.

Accordingly the grounds raised by assessee stands allowed for statistical purposes.

In the result appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in open court on 14th July, 2021

Sd/-

(Chandra Poojari)
Accountant Member

Sd/-

(Beena Pillai)
Judicial Member

Bangalore,
Dated 14th July, 2021.

Vms

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.**

		Date	Initial	
1.	Draft dictated on	On Dragon		Sr.PS
2.	Draft placed before author	-7-2021		Sr.PS
3.	Draft proposed & placed before the second member	-7-2021		JM/AM
4.	Draft discussed/approved by Second Member.	-7-2021		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	-7-2021		Sr.PS/PS
6.	Kept for pronouncement on	-7-2021		Sr.PS
7.	Date of uploading the order on Website	-7-2021		Sr.PS
8.	If not uploaded, furnish the reason	--		Sr.PS
9.	File sent to the Bench Clerk	-7-2021		Sr.PS
10.	Date on which file goes to the AR			
11.	Date on which file goes to the Head Clerk.			
12.	Date of dispatch of Order.			
13.	Draft dictation sheets are attached	No		Sr.PS