

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

Before Shri George George K, Judicial Member

ITA No.660/Bang/2020 : Asst.Year 2012-2013

Sri.Otmal Mukesh Kumar Prop : M/s.Vinayaka Jewellers Andechara Circle, MG Road Chikmagalur. PAN : AJPPK2177C.	v.	The Asst.Commissioner of Income-tax, Circle – 1 Hassan.
(Appellant)		(Respondent)

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

Date of Hearing : 16.09.2021	Date of Pronouncement : 20.09.2021
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ORDER

This appeal at the instance of the assessee is directed against the CIT(A)'s order dated 29.12.2017. The relevant assessment year is 2012-2013.

2. There is a delay of 780 days in filing this appeal. The assessee has filed a petition for condonation of delay along with an Affidavit stating therein the reasons for belated filing of this appeal. The reasons stated for belated filing of this appeal is that the assessee was suffering from illness and was under bed rest for several months. Consequently, the assessee could not file the appeal on time

2.1 The learned Standing Counsel was duly heard.

2.2 I have perused the reasons stated in the Affidavit for belated filing of this appeal. Since the assessee was suffering from illness and was under bed rest, I am of the view that there is sufficient cause for condonation of delay. Therefore, I proceed to dispose of the appeal on merits.

3. Two issues are raised in this appeal, namely, (i) addition of Rs.1,11,437 u/s 40A(3) of the I.T.Act; and (ii) addition u/s 68 of the I.T.Act amounting to Rs.12.5 lakh.

3.1 At the time of hearing, the learned AR did not press ground relating to addition of Rs.1,11,437 made u/s 40A(3) of the I.T.Act. Therefore, the issue of addition u/s 40A(3) of the I.T.Act is rejected.

3.2 At the time of hearing, the learned AR submitted that the CIT(A) has passed *ex parte* order. It was submitted that the assessee could not appear before the CIT(A) since he was bedridden due to ill health, and prayed that in the interest of justice and equity one more opportunity may be given to the assessee to prove that the addition u/s 68 of the I.T.Act is not warranted. The learned AR submitted that the assessee has necessary confirmation for all the loan transactions and all the creditors are his relatives.

3.3 The learned Standing Counsel did not have any specific objection for the issue of addition of Rs.12.5 lakh made u/s 68 of the I.T.Act to be restored to the CIT(A).

3.4 I have heard rival submissions and perused the material on record. The CIT(A) has passed an *ex parte* order. Only two hearings were given to the assessee. I am of the view that in the interest of justice and equity, the issue of addition u/s 68 of the I.T.Act needs to be decided afresh by the CIT(A). The assessee is directed to co-operate with the Department and shall not seek unnecessary adjournments. The CIT(A) shall afford a reasonable opportunity of hearing to the assessee. It is ordered accordingly.

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

Order pronounced on this 20th day of September, 2021.

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 20th September, 2021.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Bangalore