

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

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

ITA No.1149/Bang/2009 : Asst.Year 2005-2006

Sri.Sharath L/R of Late Sri.A.N.Rangaswamy No.64, Hospital Road Belepet Road Cross Bengaluru - 560 001. PAN : AHFPR8059L.	v.	The Asst.Commissioner of Income-tax, Central Cir.1(2) Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.Narendra Sharma, Advocate
Respondent by : Sri.K.Sankarganesh, JCIT-DR

Date of Hearing : 21.09.2021	Date of Pronouncement : 21.09.2021
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ORDER

Per George George K, JM

The above appeal was disposed by the ITAT vide its order dated 26.04.2010. The assessee being aggrieved, filed an appeal u/s 260A of the I.T.Act. The Hon'ble High Court vide its judgment dated 14.11.2018 in ITA No.328/2010, set aside the ITAT's order dated 26.04.2010 and the entire matter was remanded to the ITAT for fresh consideration. The relevant finding of the Hon'ble High Court, reads as follow:-

"3. However, on hearing of the learned counsel, we are of the view that in terms of the order passed in ITA Nos.366-377 of 2009, it is just and necessary that this appeal be remanded for a fresh consideration. In the earlier appeal, the assessment year was for the year 1988-1999 upto 2003-2004. The order of the Tribunal was set aside and entire matter was remanded for a fresh consideration."

2. Consequent to the remand by the Hon'ble High Court, the appeal was heard on 21.09.2021. The learned AR submitted that the issue raised in this appeal needs to be restored to the files of the A.O. It was stated that the addition made for the relevant assessment year 2005-2006 was based on additions made for the assessment years 1999-2000 to 2004-2005 (estimated income from club and estimated income from card room). It was further stated that for assessment years 1999-2000 to 2004-2005, pursuant to the remand by the Hon'ble High Court to the ITAT (the judgment dated 28.11.2014 ITA No.367 to 377/2009) the ITAT vide its order dated 21.10.2016, restored all the issues to the files of the A.O. for *de novo* consideration (including the issues on merits). It was submitted that the additions made in this assessment year is identical and based on additions made for assessment years 1999-2000 to 2004-2005. Therefore, it was prayed that the matter may be restored to the files of the A.O.

3. The learned Departmental Representative did not have any specific grievance to the issues to be restored to the files of the A.O.

4. We have heard rival submissions and perused the material on record. The issues raised in this appeal are two additions, namely, (i) income from club amounting to Rs.72,40,000; and (ii) income from card room amounting to Rs.1,12,795. For this assessment year, the additions were based on estimation which was similar to the estimation made for assessment years 1999-2000 to 2004-2005. The

Tribunal for assessment years 1999-2000 to 2004-2005, vide its order dated 21.10.2016, had restored the entire issues raised in those appeals to the files of the A.O. (including the issue on merits). The addition made in this assessment year is identical to the additions made for assessment years 1999-2000 to 2004-2005. Therefore, we are of the view that the matter needs to be considered by the A.O. *de novo* since identical issues for assessment years 1999-2000 to 2004-005 are pending consideration before the A.O. Accordingly, the issues raised in this appeal are restored to the files of A.O. The A.O. is directed to take a decision in accordance with law after affording a reasonable hearing to the assessee.

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

Order pronounced on this 21st day of September, 2021.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 21st September, 2021.
Devadas G*

Copy to :

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

Asst.Registrar/ITAT, Bangalore