

IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

IT(IT)A No. 135/Bang/2021
Assessment year : 2016-17

Smt. Pundaleeka Geetha, No.4, 6 <sup>th</sup> Cross, N R Colony, Bangalore – 560 019. <b>PAN: AIQPG 4611B</b>	Vs.	The Income Tax Officer (International Taxation), Ward 1(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri G. Venkatesh, Advocate
Respondent by	:	Shri K. Sankar Ganesh, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	16.09.2021
Date of Pronouncement	:	27.09.2021

**ORDER**

*Per Chandra Poojari, Accountant Member*

This appeal by the assessee is directed against the order dated 23.12.2020 of the CIT(Appeals)-12, Bengaluru for the assessment year 2016-17.

2. The assessee has raised the ground that the CIT(Appeals) erred in dismissing the appeal *in limine* without proper opportunity of hearing to the assessee.

3. In the course of assessment, the AO disallowed professional fees of Rs.9,26,970/- and repair expenses of Rs.19,21,711/- stating that they pertain to earlier assessment year and not to the relevant assessment year.

Further, other expenses totally amounting to Rs.16,23,489/- came to be disallowed for want of evidence. Thus, the total disallowances amounts to Rs.44,72,170. Apart from these disallowances, in computing the brought forward losses and unabsorbed depreciation, the AO only considered Rs.3,63,84,361 as against the actual amount of Rs.3,88,03,074 as per return of income and thus the disallowed the brought forward loss and unabsorbed depreciation of Rs.24,18,713.

4. On appeal, the CIT(Appeals) dismissed the appeal *in limine* for non-prosecution. He had given the following opportunities of hearing to the assessee:-

Sl. No.	Date of issue of notice	Date of hearing	Remarks
1.	02.03.2020	11.03.2020	Assessee asked for adjournment. Case was fixed for 23.03.2020.
2.	N/A	23.03.2020	No one came for hearing.
3.	25.10.2020	16.11.2020	No reply
4.	11.12.2020	15.12.2020	No reply
5.	17.12.2020	22.12.2020	No reply

5. There was no representation from the assessee's side before the CIT(Appeals). Before us, the Id. AR submitted that when the case was posted for hearing on 11.3.2020, the assessee sought adjournment and case was posted for 23.3.2020. Later the case was posted on various dates on 16.11.2020 and 22.12.2020, where during these days COVID-19 pandemic prevailed and the assessee could not avail the opportunity on account of health reasons. However, the appeal was dismissed *in limine* by the CIT(Appeals) holding that the assessee was not interested in prosecuting the appeal. The Id. AR submitted that the assessee is very much interested in pursuing her appeal and prayed for one more

opportunity to present her case before the CIT(Appeals). We accept the prayer of the Id. AR. The period during which the case was posted for hearing before the CIT(Appeals), COVID-19 pandemic prevailed and there was reasonable cause for not attending the case before the CIT(Appeals). We are of the view that the assessee has to be provided one more opportunity before the CIT(Appeals). Accordingly, we set aside the order of the CIT(Appeals) and remit the appeal back to the file of CIT(Appeals) for fresh decision in accordance with law, after affording due opportunity to the assessee.

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

Pronounced in the open court on this 27<sup>th</sup> day of September, 2021.

Sd/-  
( N V VASUDEVAN )  
VICE PRESIDENT

Sd/-  
( CHANDRA POOJARI )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 27<sup>th</sup> September, 2021.

*/Desai S Murthy/*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.