

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

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

ITA Nos. 186 & 187/Bang/2018
Assessment year : 2011-12

Shri Muniyappa Narayana Reddy, # 501, S V Mansion, Plot Nos.4 & 5, VSR Layout, Near Varthur Police Station, Varthur, Bengaluru – 560 087. <b>PAN: ADLPR 2476D</b>	Vs.	The Income Tax Officer, Ward 4(2)(4), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri Shankar Ganesh, Jt. Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	20.10.2021
Date of Pronouncement	:	20.10.2021

**ORDER**

*Per Chandra Poojari, Accountant Member*

These two appeals by the assessee are directed against the separate orders of the CIT(Appeals)-4, Bangalore both dated 30.10.2017 for the assessment year 2011-12, one against the quantum addition and another against the levy of penalty u/s. 271(1)(c) of the Income-tax Act, 1961 [the Act].

2. The facts are that the assessee filed return of income which was processed u/s. 143(1). Later notice u/s. 143(2) was issued. None was present for the assessee before the AO and therefore the AO passed order

u/s. 144 of the Act and he made an addition of Rs.20 lakhs on the reason that assessee made a deposit of Rs.20 lakhs into his bank account for which the assessee has not furnished the source of such deposits. Consequently, he invoked the provisions of section 271(1)(c) and levied penalty of Rs.4,67,620 for willfully suppressing true and correct particulars of income. The CIT(Appeals) confirmed the addition and penalty. Against this, the assessee is in appeal before us.

3. We have heard both the parties and perused the material on record. As seen from the orders of lower authorities, the assessment order was passed *ex parte*. No notice of hearing was served on the assessee since the assessee on the reason that assessee shifted his residence from 203, 2<sup>nd</sup> Floor, Asish Apts., Inner Circle, Whitefield, Bangalore to # 501, S V Mansion, Plot Nos.4 & 5, VSR Layout, Near Varthur Police Station, Varthur, Bengaluru. As such, assessee was unable to participate in the assessment proceedings and explain the source of Rs.20 lakhs deposited into his bank account. Before the CIT(Appeals) also, the assessee was not granted sufficient opportunity to present his case. The addition of Rs.20 lakhs was based on the AIR information available with the AO. Had the assessee got sufficient opportunity of hearing, assessee could have explained and produced the necessary details. In our opinion, the assessee has to be given one more opportunity to present his case. Accordingly, we remit the issue in dispute of the quantum addition to the file of the AO for fresh consideration after providing opportunity of being heard to the assessee. The levy of penalty is consequential and the same is kept open after deciding the quantum addition, hence adjudication of levy of penalty at this stage does not arise.

4. In the result, the appeals of assessee in ITA No.187/Bang/2018 is partly allowed for statistical purposes and ITA No.186/Bang/2018 is dismissed as infructuous.

Pronounced in the open court on this 20<sup>th</sup> day of October, 2021.

Sd/-  
( BEENA PILLAI )  
JUDICIAL MEMBER

Sd/-  
( CHANDRA POOJARI )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 20<sup>th</sup> October, 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.