

**IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI – VIRTUAL COURT**

**BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI S. S. VISWANETHRA RAVI, JM**

आयकर अपील सं. / ITA No.31/PAN/2018
निर्धारण वर्ष / Assessment Year : 2010-11

Smt. Suman N. Bhasme,
C/o S. L. Navanale,
Jawan Quarters, Subash Nagar,
Belagavi-590016.

PAN : AVSPB1169L

.....अपीलार्थी / Appellant

बनाम / V/s.

ITO, Ward-2(1),
Belagavi.

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri Sourabh Nayak

सुनवाई की तारीख / Date of Hearing : 08.11.2021
घोषणा की तारीख / Date of Pronouncement : 11.11.2021

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals), Gulbarga ('CIT(A)' for short) dated 22.11.2017 for the assessment year 2010-11.

2. Briefly, the facts of the case are that the appellant is an individual deriving income from catering business and pension from FESCOM. The return of income for the assessment year 2010-11 was filed on 30.03.2012 disclosing total income of Rs.2,04,930/-. Against the said return of income, the assessment was completed by the Income Tax Officer, Ward-2(1), Belgaum ('the Assessing Officer' for short) vide order dated 21.03.2014 passed u/s 144 r.w.s. 147 of the Income Tax Act, 1961 ('the Act' for short) at a total income of Rs.9,54,930/- after making disallowance of Rs.7,50,000/- on account of deemed income in the form of unexplained cash credit u/s 69A of the Act.

3. Being aggrieved by the above disallowance, an appeal was preferred before the ld. CIT(A), who vide impugned order dismissed the appeal on the ground of non-compliance of notice of hearing despite due service of notice, as well as, on the ground that the material available on record was not sufficient to grant any relief to the assessee.

4. Being aggrieved by the dismissal of appeal by the ld. CIT(A), the appellant is before us in the present appeal.

5. Even before us when the appeal was called on for hearing none appeared on behalf of the appellant-assessee despite due service of notice. After hearing the ld. CIT-DR, we proceed to dispose of this matter. From the perusal of the impugned order, it is clear that the ld. CIT(A) while passing the *ex-parte* order had not adjudicated the issue raised in appeal on merits, instead the ld. CIT(A) held that due to non-compliance of the appeal on behalf of the assessee and the material available on record was not sufficient to grant any relief to the assessee, accordingly, the appeal is dismissed. This approach of the ld. CIT(A) is totally unreasonable and unjustified. The ld. CIT(A) fell in serious error by not disposing the appeal on merits. The settled position of law mandates the CIT(A) to dispose of the appeal by adjudicating the issue raised in appeal on merits. In the present case, the ld. CIT(A) had fell into serious error by holding that due to non-compliance of notice of hearing or the material available on record was not sufficient to grant any relief to the assessee, the appeal is dismissed. Therefore, we vacate this finding of the ld. CIT(A).

6. In the circumstances, we remand the matter back to the file of the ld. CIT(A) and direct him to dispose of the appeal on merits in accordance with law after affording sufficient opportunity of being heard to the appellant.

7. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced on this 11th day of November, 2021.

Sd/-

(S. S. VISWANETHRA RAVI)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-

(INTURI RAMA RAO)
लेखा सदस्य/ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 11th November, 2021.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), Gulbarga.
4. The Pr. CIT, Belgavi.
5. DR, ITAT, Panaji.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.