

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

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.581/Bang/2021 : Asst.Year 2017-2018

Sri.Veeresh Basayya Dandavathimath 7, Shed No.D-7, GEIC Limited Gadag Hubli Road Gadag – 582 103. PAN : AIWPD2935R.	v.	The Assistant Director of Income-tax, CPC Bengaluru.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt.Priyadarshini Besaganni, JCIT-DR

Date of Hearing : 20.12.2021	Date of Pronouncement : 21.12.2021
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ORDER

Per George George K, JM:

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 26.08.2021. The relevant assessment year is 2017-2018.

2. The grounds raised read as follows:

“1. The order passed by learned CIT(Appeals) is illegal, baseless and opposed to facts of the case.

2. The learned CPC has added Rs.1,20,17,636 being Gross Contract Receipts as per Form 26AS to the returned income of assessee. Assessee filed rectification return u/s 154 before CPC but the same was rejected. Hence the appeal is filed.

3. Assessee is a partner in M/s.Adishakti Transformers. The only source of income of assessee is interest and salary received from the firms.

4. The Gross Contract Receipts in Form 26AS of the assessee actually belongs to firm M/s.Adishakti Transformers, Gadag. No such addition can be made u/s 143(1).

5. *CIT(Appeals) has not considered the principles of natural justice. He has not given us proper opportunity of being heard. The appeal is filed by the assessee against rectification order in time but the CIT(Appeals) has dismissed and rejected the appeal.*

6. *A latest extract of Form 26AS is submitted as Annexure-I which shows that the earlier Form 26AS is wrong. The tax deductor has made TDS in the name of assessee instead of making it in the name of firm where assessee is partner.*

7. *Assessee prays leave to add any other grounds of appeal before or at the time of hearing.”*

3. The brief facts of the case are as follows:

The assessee is an individual and partner of M/s.Adishakti Transformers. The firm M/s.Adishakti Transformers is carrying on the business of civil contract work. For the assessment year 2017-2018, the return of income was filed on 29.03.2018 declaring income of Rs.11,59,181. The return of income was processed by the CPC and intimation u/s 143(1) of the I.T.Act was issued after making addition of Rs.1,20,17,636. The addition was made on account of mismatch of receipts as per return of income and 26AS. The assessee filed rectification application u/s 154 of the Act vide application dated 17.01.2020. The rectification application was rejected by the CPC vide order dated 24.02.2020.

4. Aggrieved, the assessee filed an appeal before the first appellate authority. The CIT(A) dismissed the appeal of the assessee. The CIT(A) held that there is no mistake apparent from record, and therefore, the CPC was correct in rejecting the rectification application u/s 154 of the Act.

5. Aggrieved by the order of the CIT(A), the assessee has filed this appeal before the Tribunal. None appeared on behalf of the assessee.

6. The learned Departmental Representative strongly supported the order of the CIT(A).

7. We have heard the learned DR and perused the material on record. The CPC has added Rs.1,20,17,636 being gross contract receipts as per Form No.26AS to the returned income of the assessee. It is claimed that the assessee is a partner of M/s.Adishakthi Transformers and the only source of income for the assessee is interest and salary received from the said firm. It is stated in the grounds that the gross receipts in form 26AS is not of the assessee but belongs to the firm M/s.Adishakthi Transformers, and therefore, no such addition can be made in the intimation u/s 143(1) of the Act. It is stated that the latest extract of Form No.26AS, which is enclosed as Annexure-1 shows that the earlier Form 26AS is wrong and the tax deductor has made TDS in the name of the assessee instead of making it in the name of the firm where the assessee is a partner. In the orders passed by the CPC and the CIT(A), there is no mention about the corrected form 26AS. It is seen that the latest extract of 26AS has not been taken into consideration by the CIT(A). The CIT(A) has dismissed the appeal of the assessee by merely stating that there is no mistake apparent on record for invoking the provisions of section 154 of the Act. When additions are made in the intimation passed u/s 143(1) of the Act on account of

mismatch of receipts shown in the return of income and Form 26AS and the same when it is corrected later, necessarily, the corrected 26AS need to be taken into consideration, which in this case is seen not considered. Therefore, in the interest of justice and equity, we deem it appropriate to restore this case to the file of the Assessing Officer. The A.O. is directed to consider the corrected Form 26AS and bring to tax only the income that is received by the assessee. It is ordered accordingly.

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

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

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

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

Copy to :

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

Asst.Registrar/ITAT, Bangalore