

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “SMC-B”, BANGALORE**

Before Shri George George K, Judicial Member

ITA No.406/Bang/2022 : Asst.Year 2017-2018

M/s.International Flower Auction Bangalore Limited No.24 KAIC Building, Bellary Road, Hebbal Bangalore – 560 024. PAN : AABCI2041M.	v.	The Assistant Commissioner of Income-tax, Circle 3(1)(1) Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.R.E.Balasubramanyam, CA
Respondent by : Sri.Ganesh R.Ghale, Standing Counsel

Date of Hearing : 15.06.2022	Date of Pronouncement : 15.06.2022
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ORDER

This appeal at the instance of the assessee is directed against CIT(A)'s order dated 28.03.2022. The relevant assessment year is 2017-2018.

2. The grounds raised read as follows:-

“1. That the impugned order is opposed to facts and law insofar as it is prejudicial to the interests of the appellant.

2. That the impugned order is illegal, bad and nullity at law inasmuch as it was passed in haste, without application of mind and sufficient opportunity was not afforded to the appellant to make its submission and present its case. Rs.6,40,369/-.

3. Without prejudice to ground 2, the ld.CIT(A) erred in confirming the disallowance of rent payable pertaining to earlier periods without appreciating the fact that the liability crystallized only in the year under appeal and the amount paid was rightly claimed by the appellant.

4. Without prejudice to ground 2 and 3, and in addition thereto the ld.CIT(A) and ld.AO failed to appreciate that the

expenditure, even if provided in earlier years would have been subject to disallowance u/s 40(a)(ia) and the same would be deductible only when the tax was deducted and deposited.

The appellant prays for leave to add, modify, delete or introduce additional grounds of appeal at any time before the appeal is disposed off.

Based on these and such other grounds that may be adduced from time to time, the appellant requests the Hon'ble Income Tax Appellate Tribunal to consider the petition in the light of principles of justice and cancel the additions made by the Assessing Officer which were confirmed by the Commissioner of Income Tax (Appeals)."

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

The assessee is a company engaged in the auction of flowers. For the relevant assessment year, the return of income was filed on 26.10.2017 declaring income of Rs.20,70,670. The case was selected for scrutiny by issue of notice u/s 143(2) of the I.T.Act. During the course of assessment proceedings, the Assessing Officer noticed that the assessee had debited certain expenses relating to rent paid to Karnataka Agro Industries Corporation Limited (KAICL) to the profit and loss account. In relation to the same, the assessee submitted that it was required to pay KAICL rent at 1% of the monthly auction turnover. It was stated that there was some dispute on the issue and it had neither paid the rent nor made a provision for the same for the period June 2014 onwards. It was further submitted by the assessee that the dispute was resolved during the year under consideration and so rent for the entire period up to March 2017 was paid and claimed as expense during the year under consideration. However, the submission of the assessee was not accepted. The A.O. concluded that the rent was required

to be claimed as expenditure on accrual basis in the relevant financial years only and as such the rent paid for a period upto 31.03.2016 was prior period expenses for the year under consideration and disallowed a sum of Rs.24,45,282.

4. Aggrieved, the assessee filed an appeal before the first appellate authority. Before the CIT(A), the assessee did not appear nor there was any request for adjournment. Hence, the CIT(A) decided the issue ex parte and confirmed the view taken by the A.O.

5. Aggrieved, the assessee has filed this appeal before the Tribunal. The learned AR submitted that the assessee was not served hearing notice, consequently, nobody could appear on behalf of the assessee nor the written submission was filed. It was requested in the interest of justice the matter may be remanded to the CIT(A) for consideration after hearing the assessee.

6. The learned Standing Counsel supported the orders of the Income Tax Authorities.

7. I have heard rival submissions and perused the material on record. In the instant case, the appeal before the CIT(A) was fixed for hearing on 16.03.2022 and 24.03.2022. However, it is asserted by the learned AR that the hearing notice was not served either online or otherwise. I am of the view, in the interest of justice and equity, the assessee should be given one more opportunity to present its case before the CIT(A). Accordingly, the issue raised in this appeal is restored

to the files of the CIT(A). The CIT(A) is directed to afford a reasonable opportunity of hearing to the assessee before a decision is taken in the matter. It is ordered accordingly.

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

Order pronounced on this 15th day of June, 2022.

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 15th June, 2022.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-11, Bengaluru.
4. The Pr.CIT (Central), Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore