

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

**Before Shri Chandra Poojari, Accountant Member**

ITA No.517/Bang/2022 : Asst.Year 2012-2013

Sri Danappa Arjun Biradar Akkugol Oni, At Post Babaleshwar Taluk Bijapur – 586 113. <b>PAN : BJBPB5319J.</b>	v.	The Assistant Commissioner of Income-tax, Circle 1 Vijaypur.
(Appellant)		(Respondent)

Appellant by : Smt.Prathibha, Advocate

Respondent by : Sri.Ganesh R.Ghale, Standing Counsel

<b>Date of Hearing : 17.08.2022</b>	<b>Date of Pronouncement : 17.08.2022</b>
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**ORDER**

This appeal filed by the assessee is directed against the order of the CIT(A), NFAC dated 12.04.2022 for the assessment year 2012-2013. The assessee has raised the following grounds:-

“1. The ld.CIT(A) erred in confirming the ex-party order passed u/s 147 r.w.s. 144 of the Act without giving an opportunity to the appellant to provide the details during the course of appellate proceedings.

2. On the facts and in the circumstances of the case, the reopening of the assessment u/s 147 of the Act by issuing the notice u/s 148 of the Act beyond six years was opposed to law and accordingly the assessment as made is liable to be cancelled.

3. The conditions precedent being absent the reopening of the assessment u/s 147 is bad in law.

4. The ld.CIT(A) erred in confirming the addition of Rs.45,81,000/- under sec.69A of the Act on the ground that the cash deposits in the bank account. The source of cash deposits is explainable, without providing the opportunity to the appellant the addition was confirmed.

5. The ld.CIT(A) ought to have appreciated the fact that the cash deposits are out of sale of agricultural land, no opportunity provided to submit the details by the ld.CIT(A) and same ought to be deleted.

6. *Without prejudice the addition is excessive arbitrary and unreasonable and liable to be reduced substantially.*

7. *The learned assessing authority erred in levying the interest u/s 234A and 234B of the Act.*

8. *For these and other grounds that may urged at the time of hearing.”*

2. At the time of hearing before me, the learned Counsel for the assessee argued that the assessee has not been provided with proper opportunity of hearing, and the notice of hearing was given by the CIT(A) during the Covid-19 pandemic period, i.e. on 22.01.2021. Therefore, the CIT(A) has passed the impugned order on 12.04.2022 without giving any further notice. The learned DR submitted that the assessee has been provided with proper opportunity but the same was not utilized by the assessee. Further, there was also wide gap between receiving the notice by the assessee i.e., 22.01.2021 and passing the impugned order by the CIT(A) i.e., 12.04.2022.

3. After hearing both the parties, I am of the opinion that the CIT(A) has given only one notice, that is also during the Covid-19 pandemic period, i.e. on 22.01.2021, and this opportunity has not been utilized by the assessee. However, the CIT(A) straight away passed the order on 12.04.2022 without giving any further opportunity. Though there was a wide gap between the issue of first notice on 22.01.2021 and passing the order on 12.04.2022, due to Covid-19 pandemic situation, the assessee was unable to avail the opportunity given by the CIT(A). In view of the above, I remit the entire

issue in dispute to the files of the CIT(A) for fresh consideration. Since I have remitted the entire issue in dispute to the files of the CIT(A), I am refrain from adjudicating the issue on merits with regard to the addition sustained by the CIT(A) u/s 69A of the Act in respect of deposit of Rs.45.81 lakh into the assessee's bank account. The assessee is at liberty to place necessary evidences / documents in support of his case before the CIT(A). Needless to say, the CIT(A) shall afford a reasonable opportunity of hearing to the assessee before taking a decision on this issue. It is ordered accordingly.

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

Order pronounced on this 17<sup>th</sup> day of August, 2022.

**Sd/-**  
**(Chandra Poojari)**  
**ACCOUNTANT MEMBER**

Bangalore; Dated : 17<sup>th</sup> August, 2022.  
Devadas G\*

Copy to :

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

Asst.Registrar/ITAT, Bangalore