

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 576/Bang/2022
Assessment Year : 2016-17

M/s. Nidhi Land Infrastructure Developers India Pvt. Ltd., Pinto Chambers, Bejai, Mangalore – 575 004. PAN: AADCN8891L	Vs.	The Commissioner of Income Tax (Appeals) - 2, Panaji, Goa.
APPELLANT		RESPONDENT

Assessee by	:	Shri Vanraj Shetty, CA
Revenue by	:	Shri Sankar Ganesh K, JCIT DR ITAT

Date of Hearing	:	25-08-2022
Date of Pronouncement	:	26-08-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by assessee against order dated 23/05/2022 passed by Ld.CIT(A)-2, Panaji on following grounds of appeal:

“1. The Learned AO has made additions to the returned income without verification of documentary evidence and without giving sufficient opportunity of being heard.

2. The Learned CIT (Appeals) has wrongly erred in dismissing the appeal without seeking any remand report from the Learned AO.

3. The Addition to the returned income has resulted in financial burden to the Appellant in the form of additional taxes and interest even when the expenses were genuinely

paid within the monetary limit u/s 40A(3) of the Income Tax Act, 1961.

4. The Appellant prays that the addition made by Learned AO is based on factually incorrect assumption and ought to be deleted. The Appellant submits that documentary evidence in support of the expenses must be examined to check the veracity of the claim.

5. The Assessment has been concluded on the basis of certain assumptions and is opposed to the facts of the case and law.

6. Such other grounds as may be urged at the time of hearing.”

2. The Ld.AR at the outset submitted that assessee was not granted proper opportunity of hearing by the Ld.CIT(A). He submitted that the case was fixed for hearing on 06/05/2022 and thereafter on 17/05/2022 in response to which assessee filed written submission vide email. It is submitted that the Ld.CIT(A) passed the impugned order immediately on 23/05/2022, thereby not granting sufficient opportunity to explain the impugned addition. He thus prayed that, the issue may be remanded to be considered in accordance with law.

The Ld.DR did not object the prayer of the assessee.

3. We note that assessee was not granted the opportunity in accordance with law thereby violating the principles of natural justice. In the interest of justice without making any comment on merits of the case, we remand this issue to the Ld.AO as due verification of the expenditure incurred is carried out which is best possible at the Assessing Officer level.

4. We direct the Ld.AO to consider this issue *de novo* by granting proper opportunity of being heard to assessee in accordance with law. Assessee is directed to file relevant details / evidences in support of its claim which shall be verified by the Ld.AO.

Needless to say that proper opportunity of being heard must be granted to assessee.

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

Order pronounced in the open court on 26th August, 2022.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 26th August, 2022.
/MS /

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|---------------|------------------------|
| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore