

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

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

ITA No. 682/Bang/2022
Assessment Year : 2018-19

M/s. Sree Subha Sales, 1150, Arnav, 13 th Cross, 1 st Phase, 1 st Stage, Chandra Layout, Bangalore – 560 072. PAN: ADDFS9427R	Vs.	The Deputy Commissioner of Income Tax, Circle – 3(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri B.R. Sudheendra, Advocate
Revenue by	:	Shri Arun Kumar, CIT DR

Date of Hearing	:	07-09-2022
Date of Pronouncement	:	12-09-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal is filed by assessee against order dated 11/07/2022 passed by National Faceless Appeal Centre, Delhi for A.Y. 2018-19.

2. At the outset, we note that notice was served to the assessee on 04/05/2022 and 05/07/2022 through IT portal. Assessee filed written submissions which is reproduced in the order of the Ld.CIT(A). Thereafter without granting any further opportunity

based on the assessment record, the Ld.CIT(A) has passed the impugned order confirming the additions made by the Ld.AO.

3. We refer to the decision of *Hon'ble Karnataka High Court* in case of *Sri. Pichila Jayachandra Reddy vs. National Faceless Assessment Centre* in *W.P. No. 9669/2022(T-IT)* by order dated 07/06/2022 wherein the *Hon'ble High Court* observed as under:

“5. It is clear from the record that no reasonable opportunity of hearing has been accorded to the petitioner and on that count the interim order is liable to be set aside and the matter requires to be remand back to the authorities to consider the petitioner's request of affording a reasonable opportunity of hearing.

Hence, the following;

ORDER

1) Order dated 31.03.2022 bearing No.ITBA/AST/F/17/2021-22/1042398683(1) vide Annexure-A to the writ petition is set aside.

2) Matter is remitted to respondent No. 1-authority.

3) Respondent No.1-authority shall issue notice to the petitioner and afford him reasonable opportunity of hearing of atleast seven days time to respond to the notice and thereafter consider all the relevant materials on record and take appropriate decision in accordance with law.”

4. The Ld.AR has also relied on the following decisions.

- *Decision of Hon'ble Bombay High Court in case of Premlata Ramakant Fatehpuria vs. Pr.CIT reported in [2022] 140 taxmann.com 97*
- *Decision of Hon'ble Mumbai Tribunal in case of Bank of India vs. ACIT reported in [2022] 140 taxmann.com 41*
- *Decision of Hon'ble Madras High Court in case of Ramco Cements Ltd. vs. National Faceless Assessment Centre reported in [2022] 139 taxmann.com 81*

5. We note that assessee was denied the opportunity of being heard, and the NFAC simply proceeded to dispose the appeal on the basis of the materials available on record.

In view of the above discussions, the right course of action for us would be that the matter may be sent back to the NFAC stage.

6. The NFAC shall grant a personal hearing to the assessee and decide the issue based on the evidences filed in accordance with law and pass a detailed order.

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

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

Order pronounced in the open court on 12th September, 2022.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 12th September, 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