

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

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA Nos. 37 & 39/Bang/2021
Assessment Years : 2008-09 & 2012-13

Shri H.S. Suresh, No. 25, Manchammahal, Dollar's Colony, Nandini Layout, Bengaluru – 560 022. PAN: AEUPS8116H	Vs.	The Deputy Commissioner of Income Tax, Central Circle – 1[4], Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Pranav Krishna, Advocate
Revenue by	:	Dr. Manjunath Karkihalli, CIT DR

Date of Hearing	:	09-11-2022
Date of Pronouncement	:	29-11-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeals are filed by assessee against separate orders dated 14/12/2020 passed by Ld.CIT(A)-11, Bengaluru for A.Ys. 2008-09 and 2012-13.

2. Without going into the merits of the case at the outset, the Ld.AR submitted that additional evidences were filed before the

Ld.CIT(A) however the same were not considered by observing as under:

“15. The AO has made the additions for want of confirmations from the persons from whom the appellant claims to have received the monies. The appellant has filed certain additional evidences during the course of this appeal in support of his stand. These additional evidences, filed now, cannot be admitted as the appellant has not given any satisfactory reason as to why the same could not be filed during the course of assessment proceeding. The addition made thus stands confirmed.”

3. The above observation has been made by Ld.CIT(A) in the impugned order for A.Y. 2008-09.

4. For A.Y. 2012-13, the assessee had filed additional evidence before the Ld.CIT(A) which is placed at pages 54-97 of the paper book and for A.Y. 2008-09, the additional evidence filed before the Ld.CIT(A) is placed at pages 42-60. On perusal of the impugned orders for both the years under consideration, we note that the Ld.CIT(A) has decided the issue on merits without admitting the additional evidence by observing that the same were not filed before the Ld.AO.

4.1 In our opinion, the Ld.CIT(A) should have admitted the additional evidence and should have called for a remand report from the Ld.AO in respect of the same. Principles of natural justice has not been followed in its true sense while deciding the issue on merits and therefore we are inclined to remand these appeals back to Ld.CIT(A). The Ld.CIT(A) shall call for a remand report from the Ld.AO, cause necessary verification in respect of issues alleged by the assessee on merits, then pass a reasoned order in accordance with law.

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

5. We also note that the legal issue is raised by the assessee which is kept open, as the issue on the merit has been remanded to the Ld.AO.

Accordingly, the grounds raised by the assessee on merits stands allowed for statistical purposes.

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

Order pronounced in the open court on 29th November, 2022.

Sd/-
(PADMAVATHY S)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 29th November, 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