

IN THE INCOME TAX APPELLATE TRIBUNAL

PANAJI BENCH : PANAJI

(THROUGH VIRTUAL HEARING)

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND

SHRI G.D. PADMAHSHALI, ACCOUNTANT MEMBER

ITA.Nos.205 & 206/PAN./2018

Assessment Years 2006-2007 & 2009-2010

Shri Basavaraj Siddappa Bhavikatti, 102, 3 <sup>rd</sup> Main, 8 <sup>th</sup> Cross, Basaveshwara Layout 2 <sup>nd</sup> stage, Near Chandra Layout Bus Depot, Bengaluru-560040. Karnataka PAN ACNPB0135E	vs.	The Income Tax Officer, Ward – 2 (2), Income Tax Offices, Feroz Khimjibhai Complex, Opp. Civil Hospital, Dr. B.R. Ambedkar Road, Belagavi PIN – 590 001. Karnataka.
(Appellant)		(Respondent)

For Assessee :	-None-
For Revenue :	Shri N. Shrikanth

Date of Hearing :	08.08.2023
Date of Pronouncement :	09.08.2023

**ORDER**

**PER SATBEER SINGH GODARA, J.M. :**

These assessee's twin appeals arise against the CIT(A), Belagavi's order in case No.ITA.No.331 & 333/BGM/2013-14, dated 23.03.2018 [A.Y.2006-07] and dated 01.03.2018 [A.Y.2009-2010], involving proceedings u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short "the Act").

Cases called twice. None appears at assessee's behest. He is accordingly proceeded ex-parte.

2. We note during the course of hearing with the able assistance coming from the Revenue side that the first and

foremost issue which arises for our apt adjudication herein is that of validity of the former re-assessment dated 13.01.2014 itself since framed without issuing any sec.143(2) notice [A.Y. 2006-2007] and that of latter reopening [A.Y. 2009-2010] involving reasons recorded reading as “to brought to tax the income escaped amounting to Rs.1,51,781/-”; respectively.

3. We have afforded ample opportunities to the department to indicate from the Assessing Officer’s re-assessment dated 13.01.2014 for A.Y. 2006-2007 that the above stated notice u/sec.143(2) had been issued to the taxpayer. We make it clear that such a notice has been duly held as a mandatory condition in light of hon’ble apex court’s landmark decision in ACIT vs. Hotel Blue Moon [2010] 321 ITR 362 (SC). No rebuttal to this clinching fact came from the department side during the course of hearing before us. Faced with the situation, we are of the opinion that the impugned re-assessment framed in absence of a sec.143(2) notice; after the assessee’s valid return, is not sustainable in law. The assessee’s instant first and foremost substantive grievance stands accepted in very terms. His former appeal ITA.No.205/PAN./2018 succeeds therefore.

4. The outcome would be hardly any different in the latter A.Y. 2009-2010’s appeal ITA.No.206/PAN./2018 wherein the Assessing Officer’s above extracted reopening reasons are

found to be totally vague ones only. Faced with the situation, we quote honble jurisdictional high court's landmark decision in Hindustan Lever Ltd., vs. RB Wadekar, ACIT [2004] 268 ITR 332 (Bom.) that an Assessing Officer's reopening reasons have to be read on standalone basis without any scope of improvement or substitution therein at a latter stage. We accordingly quash the impugned reopening based on the above extracted vague reopening reasons recorded by the Assessing Officer in this latter assessment year 2009-2010. The assessee's appeal ITA.No.206/PAN./2018 is accepted therefore.

5. All other pleadings on merits stand render academic.

6. These assessee's twin appeals are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 09.08.2023.

Sd/-  
[G.D. PADMAHSHALI]  
ACCOUNTANT MEMBER

Sd/-  
[SATBEER SINGH GODARA]  
JUDICIAL MEMBER

Pune, Dated 09<sup>th</sup> August, 2023

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Belagavi
4.	The Pr. CIT, Belagavi
5.	D.R. ITAT, Panaji Bench, Panaji
6.	Guard File.

//By Order//

Assistant Registrar, ITAT, Pune Benches,  
Pune.