

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA Nos. 525 &amp; 526/Bang/2023</b>
<b>Assessment Year : 2014 – 15</b>

Smt. Javangi Haribushna, No. 78, C/o. J. Rajareddy, T. Rama Rao Layout, 11 <sup>th</sup> Main, 11 <sup>th</sup> Cross, Malleshwaram, Bangalore – 560 003. <b>PAN: AILPH7729L</b>	<b>Vs.</b>	The Income Tax Officer, Ward – 2(2)(3), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Kashinath Kalmath, Advocate
Revenue by	:	Shri Subramanian .S, JCIT (DR)

Date of Hearing	:	11-10-2023
Date of Pronouncement	:	11-10-2023

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal arises out of order dated 26.05.2023 in respect of the quantum addition u/s. 143(3) and order dated 26.05.2023 in respect of penalty order passed u/s. 271(1)(c) of the act, on following grounds of appeal:

**ITA No. 525/Bang/2023**

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The Learned CIT (A) went wrong in confirming the order of penalty passed u/s.271(1)(c) of the Act in the appellant's case for the assessment year 2014-15.</i>	Rs. 8,77,025/-
2.	<i>The Learned CIT (A) ought to have cancelled the penalty, since the appellant has provided all particulars in relating income, i.e. bank statement on which additions are made treating the credits are income.</i>	
3.	<i>The Learned CIT (A) erred in holding the appellant has concealed the income for the assessment year 2014-15.</i>	
4.	<i>The Learned CIT (A) ought to have cancelled the penalty on the ground that the penalty notice did not specify the charge for levy of penalty u/s.271(1)(c) of the Act and no cause is mentioned in the order of assessment for initiation of penalty proceedings u/s. 271(1)(c) of the Act.</i>	
5.	<i>The Learned CIT(A) failed to appreciate the explanation/ submission made to each of the credit entry in the bank account and also erred in not considering the withdrawals from bank as available for re-deposit.</i>	
6.	<i>On the facts and in the circumstances of the appellant's case, the Learned CIT (A) ought to have held no penalty is warranted in respect of additions made, as the any of the addition is sustainable either on law or facts and is made applying the deeming provisions of the Act.</i>	

	<i>Appellant craves leave of this Hon'ble Tribunal to add/delete/modify any ground/s at the time of hearing.</i>	
	<i>Total tax effect (see note below)</i>	<i>Rs. 8,77,025/-</i>

**ITA No. 526/Bang/2023**

<i>Grounds of Appeal</i>		<i>Tax effect relating to each Ground of appeal (see note below)</i>
1.	<i>The Learned CIT(A) erred in confirming the additions made in the order of assessment made for the year 2014-15 U/s.143(3) of the Income Tax Act, 1961.</i>	<i>Rs.13,01,380/-</i>
2.	<i>The Order of the Learned CIT(A) is not a speaking order and is passed without considering properly the written submissions filed.</i>	
3.	<i>The Learned CIT(A) ought to have held the order of assessment is opposed to principles of natural justice assessment is concluded without proper opportunity.</i>	
4.	<i>The Learned CIT(A) erred in holding new evidences is fabricated and did not appreciate the detailed submissions made by the appellant.</i>	
5.	<i>The Learned CIT(A) erred in not considering the explanations provided for each of the credit in the bank account and addition is confirmed without proper appreciation.</i>	
6.	<i>The Learned CIT(A) erred in holding no evidences are filed in support of the Gift and agricultural income.</i>	
7.	<i>The Learned CIT(A) erred in holding the appellant did not file confirmation from Mr.Shivaramaih and Mr.Shivaramaiah clearly stated in the letter the details of transaction with the appellant.</i>	

8.	<i>The Learned CIT(A) ought to have considered withdrawals from the bank as available for redeposit before upholding the additions made in the order of assessment.</i>	
9.	<i>The Learned CIT(A) erred in confirming the computation of tax and interests in the appellant's case for the assessment year 2014-15.</i>	
10.	<i>The Appellant respectfully submits the additions made in the order of assessment are not sustainable on facts and law and are liable to be deleted.</i>	
	<i>Appellant craves leave of this Hon'ble Tribunal to add/delete/modify any ground/s at the time of hearing.</i>	
<i>Total tax effect (see note below)</i>		<i>Rs.13,01,380/-</i>

## **2. Brief facts of the case are as under:**

2.1 Assessee is an individual is in the business of tailoring work and also an agriculturalist. She is a regular income tax payer and has been filing her income tax return every year.

2.2 For the year under consideration, the assessee filed her return of income on 04.01.2016. It was submitted that assessee has earned income of Rs.2,27,400/- from the business of tailoring during the relevant year under consideration and the same has been offered to tax. The assessee further submitted that assessee along with her spouse jointly owns around 3 acres of agricultural land near Maddur, Karnataka and has received agricultural income from sale of agricultural produce being coconuts, tender coconuts, dry coconuts, bananas etc. which was received in cash and the same was deposited in her bank account held with The Janatha Co-operative Bank Ltd. The details of the

cash deposited during the year has been filed by the assessee which is reproduced in the impugned order.

2.3 The Ld.AO observed that, the assessee had received cash amounting to Rs.43,50,000/- during the financial year relevant to Assessment Year under consideration out of which a sum of Rs.11,70,000/- was allowed by him, and the balance amount of Rs.31,80,000/- was held to be unexplained cash credits u/s. 68 of the act.

2.3.1 The Ld.AO called for various details which were furnished by the representative of assessee. The Ld.AO examined the details filed by the assessee during the assessment and concluded the assessment by making the addition of unexplained cash credits of Rs.31,80,000/-. The Ld.AO also initiated penalty u/s. 271(1)(c) proceedings simultaneously.

2.4 Aggrieved by the order of the Ld.AO, assessee filed appeal before the Ld.CIT(A). The Ld.CIT(A) while deciding the issue observed and held as under:

*“6. DECISION: In this case, the addition has been made by the Assessing Officer worth Rs. 31,80,000/- u/s 68 of the Income Tax Act, 1961. The assessee has made cash deposit in the bank accounts worth Rs. 43,50,000/-. The AR of the assessee could explain the source of deposit worth Rs. 11,70,000/- before the Assessing Officer, but the AR could not explain the source of Rs. 31,80,000/- before the Assessing Officer. Hence, the Assessing Officer made the addition.*

*Now before me in the appellate proceedings, written submission has been filed. In column 6, new evidence has been fabricated by the assessee. On 18/07/2013, 20/07/2013 and 12/08/2013 it has been written that 15,00,000/- is out of agricultural income. No evidence has been filed to substantiate it. No Return of Income has been filed that it has been shown as agricultural income in earlier years. On 19/08/2013, it has been written that Rs.*

*10,00,000/- has been deposited out of cash withdrawn. No cash book has been produced. On 26/11/2013, there is mention of cash deposit of Rs. 7,00,000/-. Here it is written that 6,00,000/- is agricultural income and Rs. 1,00,000/- is gift from Raja Reddy. On agricultural income, no evidence/Return of Income has been filed. On gift, no gift deed from Raja Reddy has been filed. On 12/12/2013, 18/02/2014, 24/03/2014, there is mention of hand loan from Shivaramaiah. No loan confirmation has been filed of Mr. Shivaramaiah. Hence, these entries of loan remain unexplained. On 25/03/2014, there is mention of Rs. 3,00,000/- as agricultural income. Here also no evidence/Return of Income has been filed. Hence, all these entries remain unexplained and are clearly fabricated as an afterthought. Hence, the addition of the Assessing Officer is confirmed and appeal of the assessee is dismissed.”*

2.5 Against the impugned order, the assessee is in appeal before this *Tribunal*.

3. We have perused the record and heard the submissions raised by both the sides.

4. In our opinion, the orders passed by the authorities below in 143(3) proceedings are very cryptic and has not considered any submissions filed by the assessee. It is also noted that no verification has been carried out by the authorities below. The Ld.CIT(A) has simply reproduced the observations of the Ld.AO and has dismissed the appeal of the assessee. In the interest of justice, we are of the opinion that the issue deserves to be remitted back to the Ld.AO to consider it afresh. The Ld.AO shall call for all necessary documents and the assessee is directed to file the evidences in support of her contentions. The Ld.AO shall then consider the issue in accordance with law by granting proper opportunity of being heard to the assessee.

**Accordingly, the grounds raised by the assessee in ITA No. 526/Bang/2023 stands allowed for statistical purposes.**

5. As we have already remitted the quantum appeal u/s. 143(3) of the Act of the Ld.AO for fresh consideration, the penalty levied by the Ld.AO on such quantum addition becomes infructuous at this stage. The Ld.AO shall after passing the fresh order on merits in quantum appeal may consider the penalty if necessary.

**Accordingly, the appeal filed by the assessee in ITA No. 525/Bang/2023 stands dismissed as infructuous.**

**In the result, the appeal in ITA No. 525/Bang/2023 stands dismissed and in ITA No. 526/Bang/2023 stands allowed for statistical purposes.**

Order pronounced in the open court on 11<sup>th</sup> October, 2023.

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 11<sup>th</sup> October, 2023.  
/MS /

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

By order

Assistant Registrar,  
ITAT, Bangalore