

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No.849/Bang/2023
Assessment Year: 2017-18

M/s. R.V. Shelters 284, 5 Cross, 7 Main Padmanaba Nagar Bengaluru 560 070 Karnataka PAN NO : AAOFR3220M	Vs.	ITO Ward 7(2)(5) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Shri Siddesh Nagaraj Gaddi, A.R.
Respondent by	:	Shri V. Parithivel, D.R.

Date of Hearing	:	20.12.2023
Date of Pronouncement	:	20.12.2023

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal by assessee is directed against order of NFAC for the assessment year 2017-18 dated 1.9.2023 passed u/s 250 of the Income Tax Act, 1961 (in short “The Act”). The assessee has raised following grounds of appeal:

- The order passed by the Learned Assessing Officer ITO, Ward 7(2)(5), Bangalore, as upheld by the Commissioner of Income Tax (Appeals) (National Faceless Appeal Centre) is bad in law, in so far as not considering the contention of the Appellant, making the additions and the same is not in accordance with the provisions of the Income-tax Act, 1961 and facts of the case.*
- The impugned order/s is/are bad in law as proceedings have been concluded in violation of the principles of natural justice;*

3. *The Learned CIT(A) has erred in law and on facts in passing ex parte order without adjudicating on merits, the same being against the provisions of section 250(4) read with subsection (6) is bad in law and liable to be set aside;*
4. *The AO/CIT(A) have erred in not appreciating that the Appellant was prevented by sufficient cause for not submitting a response/details during the assessment proceedings.*
5. *The Learned AO has erred in law and on facts in making, and the CIT(A) has erred in upholding, the addition of Rs.94,61,155/- to the total income;*
6. *The Learned AO/CIT(A) have erred in law and on facts in not appreciating that the provisions of section 68 of the Act are not applicable to the facts in the present case;*
7. *Without prejudice to the above, provisions of section 68 of the Act cannot be invoked for opening balances;*
8. *The additions made, without considering the documents available on records, are bad in law and liable to be deleted as it is in gross violation of the principles of natural justice.*
9. *The Learned CIT(A)/AO have erred in summarily dismissing the submissions of the Appellant, as already available on records, by stating that there is no submissions filed.*
10. *The impugned addition is liable to be quashed as it is high pitched and without understanding the facts of the case, without considering the submissions and is based on assumptions and surmises.*
11. *The Learned CIT(A)/AO have erred in invoking provisions of section 115BBE to tag. the total income of the Appellant;*
12. *Without prejudice, the interest levied u/s 234A and 234B of the Act requires to be waived off under the facts and circumstances of the case.*
13. *The Appellant craves leave to add, delete, modify or amend any of the grounds of appeal during the course of the proceedings.*
(Total tax effect: Rs. 73,79,700/-)

2. The assessee has filed additional evidences along with petition and affidavit as follows:

- a) Financial statements RVSHELTERS FOR 2016-17
- b) HELEN CHARLES – Ledger, confirmation & TDS Certificate
- c) CHARLES LEO D – Ledger, confirmation & TDS Certificate
- d) SUDARSHAN KUMAR – Ledger, confirmation & TDS certificate
- e) Copies of notices issued during assessment proceedings.

16 December 2023

To
The Assistant Registrar
The Income Tax Appellate Tribunal
Bangalore

Respected Registrar,

1. **Appellant:** M/s R V SHELTERS
284 ,5 CROSS, 7 Main Padmanaba Nagar Bengaluru 560070,
Karnataka India
2. **PAN:** AAOFR 3220 M
3. **Assessment Year:** 2017-18
4. **ITA No.:** Appeal No: 849/Bang/2023 – Assessee Appeal – ‘C’ Bench
(SMC)
5. **Hearing date:** 20.12.2023

Sub: Leave for filing of additional evidence

With reference to the above, we are herewith furnishing an application for leave for the filing of additional evidence. It is submitted that the Assessee was prevented by sufficient cause for not furnishing the details of unsecured loans.

The above information was not provided during the course of the assessment/first appellate proceedings for the reasons mentioned in the affidavit. The same amounts to ‘sufficient cause’ as referred to in Rule 18(4) of the Appellate Tribunal Rules, 1963. Without prejudice to the fact that such could have been verified by invoking the provisions of section 133(6) of the Act. the Assessee wishes to furnish the same to discharge its obligations under the Act. There is no afterthought in submitting the same as these records are duly reflected in the financial/bank statements of the Assessee, only the third-party confirmation and details of other statutory compliances (TDS, etc) are being submitted now.

In the interest of justice and equity, additional evidence may kindly be admitted, and an appropriate order be issued.

A necessary affidavit concerning this regard is enclosed.

Thanking you,

Yours faithfully,


Appellant

Additional evidence – Ledger, confirmation and TDS details of unsecured loan and interest thereon

**BEFORE THE HONOURABLE INCOME TAX APPELLATE TRIBUNAL,
BENGALURU**

ITA 748/Bang/2023 - 'A' Bench SMC

AY 2017-18

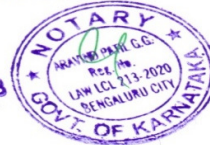
A F F I D A V I T

I, E.Vijaya kumar , Partner, M/s. RV Shelters, aged about 58 years, address # 284 ,5 CROSS, 7 Main Padmanaba Nagar Bengaluru 560070 solemnly swear and state on oath as follows:

1. I am fully conversant with the facts of the case.
2. In connection to an application for leave for filing of additional evidence in connection to the proceedings pending before the Hon'ble ITAT for Assessment Year 2017-18, it is submitted we were prevented from submitting the documents referred to in the adjoining cover letter (additional evidence), during Assessment/Appellate proceedings.
3. The Appellant was not able to make appropriate representation during assessment proceedings since the notices issued were not in the knowledge of the person concerned with tax compliance. Further, the addition to the returned income is not in compliance with the Show Cause Notice.
4. The Appellant was not able to represent during Appellate proceedings since the initial hearing notices were not actionable (issued to promote VSVS and/or during the COVID pandemic) and the subsequent notices were served on inactive mail IDs.
5. The statements made in paragraphs 2 to 4 above are based on the information available in the records which I believe to be true.
6. I state that this is my true name and signature.

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17 8 DEC 2023



Solemnly sworn on this, Saturday, December 16, 2023, at Bengaluru

Identified by me:

Deponent

Advocate.

Before Me:

Oath Commissioners



SWORN TO BEFORE ME
ARAVIND PATIL G.G. B.A., LL.B.
ADVOCATE & NOTARY
12th Main, Near Old Sub Register Office
4th Block Jayanagar, Bengaluru - 560 011.

17 8 DEC 2023

2.1 The assessee has submitted that due to improper representation before the lower authorities, assessee has been prevented from filing these documents on earlier occasion and prayed that these additional evidences may be admitted in the interest of justice.

3. We have carefully gone through the submissions made by the assessee in its petition along with affidavit. We find that there is a good and sufficient reason in filing these additional evidences before us. Accordingly, these additional evidences are admitted for consideration. After admitting these additional evidences, we are of the opinion that lower authorities have no occasion to go through these documents and in the interest of justice, it is appropriate to remit these additional evidences to the file of Id. AO to consider the grievance of the assessee in accordance with law.

3.1 Accordingly, the issue in dispute is remitted to the file of Id. AO for fresh consideration to decide in the light of additional evidences filed before us.

4. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 20th Dec, 2023

Sd/-
(Madhumita Roy)
Judicial Member

Sd/-
(Chandra Poojari)
Accountant Member

Bangalore,
Dated 20th Dec, 2023.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.