

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

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

ITA No. 708/Bang/2024
Assessment Year : 2017-18

Shri Kadavinakote Marigowda Honnappa, M/s. Harsha Wines, Holenarasipura, Hassan – 573 211. PAN: AAEPH0106Q	Vs.	The Assistant Commissioner of Income Tax, Circle – 1, Hassan.
APPELLANT		RESPONDENT

Assessee by	:	Shri Tharun Kothari, CA
Revenue by	:	Shri Subramanian .S, JCIT (DR)

Date of Hearing	:	12-06-2024
Date of Pronouncement	:	27-06-2024

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal arises out of order passed by NFAC dated 18.07.2023 for A.Y. 2017-18 u/s. 154 of the act.

2. At the outset, the Ld.AR submitted that the present appeal arises out of the order passed by the Ld.AO u/s. 154 of the act dated 17.12.2019, wherein the Ld.AO passed *suomoto* rectification in respect of the quantum of the addition made in the assessment order. The Ld.AR submitted that in the assessment order, the addition made u/s. 68 was quantified at Rs.9,60,218/- as against Rs.27,33,200/- in para 7(c) of the assessment order, that was corrected in the order passed u/s. 154 of the act. Against this order of the Ld.AO, the assessee filed appeal before Ld.CIT(A).

3. Before the Ld.CIT(A), the assessee could not appear though notices were issued on various dates as the email was sent on an id being sf.madikeri@gmail.com which was not being used by the assessee. The Ld.AR submitted that in form 35, the assessee specified the email ID to be fpwco.mysore@gmail.com. He thus prayed for the appeal to be remanded to the Ld.CIT(A) for fresh consideration.

4. On the contrary, the Ld.DR submitted that, no purpose would be served by remanding the appeal to the Ld.CIT(A) as no cause of action arises out of the order passed u/s. 154 which was subject matter of appeal before the Ld.CIT(A).

5. We have perused the submissions advanced by both sides in the light of records placed before us.

6. We note that the actual grievance raised by the assessee arises out of an order passed u/s. 143(3) dated 07.12.2019, wherein the addition was made of the demonetised cash deposited into the bank account of the assessee during the Financial Year relevant to Assessment Year under consideration.

7. In the order that was subject matter of appeal before the Ld.CIT(A) there was a typographic mistake that was rectified by the Ld.AO u/s. 154 of the act.

8. We therefore agree with the argument advanced by the Ld.DR. We are of the opinion that assessee should have filed the appeal against the assessment order passed u/s. 143(3) dated 07.12.2019 before the Ld.CIT(A). Appeal was not preferred by the assessee against the order u/s. 143(3) under a bonafide belief that, against the order passed u/s. 154, assessee could argue the addition on merits as the same merged with the order u/s. 143(3). There is a reasonable cause for the delay in filing the appeal against the assessment order passed u/s. 143(3) dated 07.12.2019. In such circumstances, justice deserves to be rendered to the assessee as assessee wishes to argue the issue on merits of the addition made u/s. 68 of the act, which arises out of the order passed u/s. 143(3) dated 07.12.2019.

9. As substantial justice deserves to be rendered, we condone such delay in filing the appeal against the assessment order passed u/s. 143(3) dated 07.12.2019. We direct the assessee to file the appeal before the Ld.CIT(A) against the assessment order within 30 days of receipt of the order by this *Tribunal*. The Ld.CIT(A) is directed to admit the appeal and consider the issue on merits based on the evidences filed by assessee.

In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 27th June, 2024.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 27th June, 2024.
/MS /

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore