

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “A”, BANGALORE**

**Before Shri Chandra Poojari, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.1152/Bang/2024: Asst.Year : 2017-2018

M/s.Kamdev 402, 2 nd Floor, Rajashree Market, Avane Road Bangalore – 560 002. PAN: AAEFK5320R.	vs.	The Income Tax Officer Ward 5(2)(5) Bangalore.
(Appellant)		(Respondent)

Appellant by: Smt.Sunaiana Bhatia, CA
Respondent by: Ms.Neha Sahay, JCIT-DR

Date of Hearing : 18.07.2024	Date of Pronouncement: 19.07.2024
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee is arising from the order of the learned CIT(A) dated 15th April, 2024 having DIN & Order No.ITBA/NFAC/S/250/2024-25/1064082309(1) and relates to assessment year 2017-2018.

2. The facts leading to the present appeal are that the assessee is a firm, has not filed its return of income for the impugned year. Thereafter, an information came to AO revealing that assessee has deposited cash during demonetization period in its bank account with Canara Bank. Accordingly, notice u/s.142(1) of the Income-tax Act, 1961 (“the Act” hereinafter) dated 13th March, 2018 has been issued calling the assessee to file the return of income for the impugned year. Thereafter, several notices were issued. In response

to the notice of the AO, the assessee intimated that the assessee firm is already closed since 2013. And, the bank has wrongly mentioned the PAN of the assessee-firm instead of the PAN of the proprietor while depositing the cash in the account of proprietorship firm. However, the AO observing that the proprietor has shown different account in her return of Income took the view that the assessee failed to explain the source of the cash deposited in its bank account and hence added the amount in the hands of the assessee for an amount of Rs.73,59,296 u/s.69A of the Act.

3. Aggrieved with the order of the AO, the assessee filed appeal before the Id.CIT(A). The Id.CIT(A) decided the appeal of the assessee *ex parte* without going into the merits of the case.

5. Now the assessee has come up in appeal before us. At the outset, the learned Counsel for the assessee argued that the entire proceedings of the Income-tax Department are vitiated inasmuch as the assessment has been made in the hands of an entity which is no more in existence at the time of framing the assessment. Counsel for the assessee also relied on several judgments for supporting the case of the assessee.

6. The learned Departmental Representative from the side of the Revenue argued that it is true that the assessee-firm was not in existence when the proceedings of assessments were going on. However, the assessee has used the PAN and has also deposited the cash during the demonetization period.

7. In rejoinder the counsel for the assessee drawn the attention of Bench towards Page number-85 of the PB and contended that the Bank has also clarified to that they have wrongly mentioned the PAN of firm while depositing the cash.

7. After considering the rival submissions and perusing the material on record, we observe that the assessee-firm has duly intimated the Income-tax Department about its dissolution vide letter dated 5th February, 2013, (**paper book at page 41**). We are of the view that this case requires fresh adjudication in order to find out the real beneficiary of this cash deposited during the demonetization period. It is settled position of law that an entity, which is no more in existence, cannot be assessed. However, having regard to the peculiar facts of the case, i.e. the use of PAN during the demonetization period. We direct the AO to examine this matter afresh. We also direct the AO to examine the Canara Bank letter dated 30th September, 2019, wherein it has been clarified that the bank has wrongly used the PAN of the erstwhile firm. Needless to say, the AO will provide proper opportunity of being heard to the assessee in the set aside proceedings.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 19th July, 2024.

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore; Dated: 19th July, 2024
Devadas G*

Copy to:

1. The Appellant.
2. The Respondent.
3. The CIT(A) Concerned.
4. The DCIT concerned.
5. The Sr. DR, ITAT, Bangalore.
6. Guard File.

Asst.Registrar
ITAT, Bangalore