

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

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

MP No.10/Bang/2024 (in ITA No.538/Bang/2023)
Assessment year : 2014-15

The Deputy Commissioner of Income Tax, Circle 1(1), Hubballi.	Vs.	The Raddi Sahakara Bank Niyamitha, Bank Road, Dharwad – 580 001. PAN : AAAAT 3297K
APPELLANT		RESPONDENT

Appellant by	:	Shri V. Parithivel, Jt.CIT(DR)(ITAT), Bengaluru.
Respondent by	:	Smt. Sheetal Borkar, Advocate

Date of hearing	:	19.04.2024
Date of Pronouncement	:	03.09.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This miscellaneous petition is filed by the revenue seeking rectification of the order of the Tribunal dated 21.9.2023.

2. In the petition the revenue has stated that in para 5 of the order the Tribunal held that the documents furnished before the First Appellate Authority physically on 15.5.2018 were also not taken into consideration by the Id. CIT(A). This is clearly a violation of the

principle of natural justice. The Tribunal directed the ld. AO to consider the issue afresh upon consideration of relevant evidences already placed by the assessee.

3. The ld. DR stated as far as the order of the AO is concerned, adequate opportunity was given to the assessee and there is no violation of principles of natural justice. Therefore, the matter ought to have been remitted back to the CIT(A), instead of the AO. The ld. DR submitted that the order of the Tribunal may be rectified accordingly.

4. Considering the rival submissions, we note that the Tribunal in the order dated 21.09.2023 observed that the impugned order is an ex parte one and the documents furnished before the FAA on 15.5.2018 were also not taken into consideration by the ld. CIT(A). The Tribunal in para 5 directed the ld. AO to consider the issue afresh upon consideration of relevant evidences, instead of remitting the issue back to the ld. CIT(Appeals), which is an error apparent on the face of record. Similarly, we note that the Tribunal in para 9 of the said order has also directed the AO to pass a speaking order considering the ratio laid down by the different Benches as indicated in the order on merits. Therefore, we modify the directions of the Tribunal in para 5 & 9 and the issue is remitted back to the ld. CIT(Appeals) for fresh adjudication on merits, after considering the relevant evidence to pass a speaking order as per law.

5. Since the order is remitted to the file of ld. CIT(Appeals), the other issues on merits raised in the miscellaneous petition are left open.

6. In the result, the miscellaneous petition by the revenue is allowed.

Pronounced in the open court on this 03rd day of September, 2024.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 03rd September , 2024.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.