

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

**Before Ms. Padmavathy S., Accountant Member
and
Shri Prakash Chand Yadav, Judicial Member**

ITA No. 1754/Bang/2024 (Assessment Year: 2012-13)		
Saiganapath Hotel Pvt. Ltd. No. 66 Govindappa Road Basavangudi Bangalore 560004 PAN – AAOCS0863N	vs.	The Income Tax Officer Ward - 6(1)(1), Bangalore
(Appellant)		(Respondent)
Assessee by:	Shri Brijesh S., CA	
Revenue by:	Ms. Neha Sahay, JCIT-DR	
Date of hearing:	24.10.2024	
Date of pronouncement:	24.10.2024	

ORDER

Per: Padmavathy S., A.M.

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [CIT(A)] dated 16.07.2024 for AY 2012-13.

2. The assessee has filed the following grounds of appeal: -

- I. The order of the learned Commissioner of Income-tax (Appeals) is opposed to the law, facts and circumstances of the case.*
- II. The order is passed against the principle of natural justice and thus, liable to be quashed.*
- III. The order passed by Learned CIT(A) indicates issuance of notices on multiple dates not responded to by the Assessee. However, no notices were received on the email id updated on the IT Portal. Therefore, the*

order passed is against the principles of natural justice as no reasonable opportunity was afforded to the Assessee to present the case.

- IV. *The learned CIT(A) has erred in concluding that the cash deposits remained un-explained in line with the original order passed by Learned AO despite the submission of Directors statement of affairs indicating the source & application of funds.*
- V. *The Appellant craves leave to add, alter, substitute, and delete any or all the grounds of appeal urged above.”*

3. The case was selected for reassessment u/s. 147 of the Income Tax Act, 1961 (the Act) for the reason that there is a cash deposit of Rs. 2,55,78,317/-. The Assessing Officer (AO) issued notices u/ss. 148 & 142(1) of the Act calling on the assessee to produce relevant details. The assessee submitted details such financial statements, bank statement, ledger account and other relevant details along with acknowledgement of having file the return of income. The AO completed the assessment u/s. 143(3) r.w.s. 147 of the Act assessing the income of the assessee at Rs. 1,31,95,698/- towards cash deposit made during the financial year 2011-12.

4. Aggrieved, assessee filed further appeal before the CIT(A). The ld. CIT(A) passed an exparte order confirming the addition made by the AO for the reason that the assessee has not responded to the notices issued. Aggrieved, assessee filed appeal before the Tribunal.

5. We have heard the rival contentions and perused the material on record. The assessment was completed u/s. 143(3) r.w.s. 147 in which the AO has made an addition of Rs. 1,31,95,698/-. The assessee in the statement of facts has submitted before the CIT(A) that the assessee was in the pre-operative construction stage and had no business income. The assessee further had stated that as on 31.03.2012 the investment in capital work-in-progress was Rs. 14,8,17,317/- and since the company had no income, the assessee did not file any return of income. We notice that the CIT(A) has issued 4 notices u/s. 250

of the Act from February, 2021 to June, 2024. Since the assessee did not respond to the notices, the CIT(A) has dismissed the appeal after considering the materials available on record. When queried by the bench on the reasons for not responding to the notices issued by the Id. CIT(A), the learned A.R. submitted that the assessee had a litigation proceeding going on with the State Bank of India (SBI) before the Debt Recovery Tribunal wherein the amount involved were substantial and that the assessee was tied up in the said proceedings hence could not attend the appellate proceeding before CIT(A). The learned A.R. brought on record the final order passed by the Debt Recovery Tribunal of Bangalore, Karnataka in support of the claim that the assessee was engaged in litigation with the SBI. The learned A.R., therefore, prayed that one more opportunity may be given to the assessee to contend the impugned issue on merits before the CIT(A). Considering the facts and circumstances of the case, in the interest of natural justice and fair play, we are of the considered view that the assessee be given one more opportunity and accordingly we remit the appeal back to the Id. CIT(A). The CIT(A) is directed to call for necessary details as may be required to adjudicate the impugned issue on merits. The assessee is directed to furnish the necessary details as may be called for by the Id. CIT(A) and cooperate with the appellate proceedings. It is ordered accordingly.

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

Order pronounced in the open Court on 24th October, 2024.

Sd/-

(Prakash Chand Yadav)

Judicial Member

Bengaluru, Dated: 24th October, 2024

n.p.

Sd/-

(Padmavathy S.)

Accountant Member

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT, concerned*
4. *The DR, ITAT, Bangalore*
5. *Guard File*

By Order

//True Copy//

*Assistant Registrar
ITAT, Bangalore*