

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH : BANGALORE

BEFORE SMT ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER
AND SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

ITA No.1833/Bang/2013
Assessment year : 2008-09

Shri. T. Veeranna, Bank Colony, Mruthyunjya Nagar, Ranebennur, Haveri. PAN : AHNPP 9925 B	Vs.	Income Tax Officer, Ward-1, Haveri.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Srinivasan, CA
Revenue by	:	Ms. Swapna Das, JCIT

Date of hearing	:	07.09.2016
Date of Pronouncement	:	31.10.2016

ORDER

Per Inturi Rama Rao, Accountant Member

This appeal filed by the assessee directed against the order of the learned Commissioner of Income Tax (Appeals), Hubli dated 30-10-2013 for the assessment year 2008-09.

2. The appellant raised the following grounds of appeal.

1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.

2. The learned CIT[A] is not justified in sustaining the addition to the extent of Rs.43,97,867/- from out of the original addition of Rs.1,38,96,832/- made in respect of unconfirmed credit balances of sundry creditors under the facts and in the circumstances of the appellant's case.

2.1 The learned CIT[A] ought to have appreciated that the appellant has proved the genuineness of the credit balances due to creditors at the end of the year and he ought not to have sustained a part of the addition on the ground that some of the creditors did not appear before the A.O. in the remand proceedings under the facts and in the circumstances of the appellant's case.

2.2 Without prejudice to the above, the addition sustained by the learned CIT[A] is highly excessive and liable to be reduced substantially.

3. The learned CIT[A] is not justified in sustaining a sum of Rs.30,000/- as other income by restricting the agricultural income reported under the facts and in the circumstances of the appellant's case.

4. Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies himself liable to be charged to interest u/s. 234-B and 234-D of the Act, which under the facts and in the circumstances of the appellant's case deserves to be cancelled.

5. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.

3. Briefly the facts of the case are the assessee is an individual and is engaged in the business of Commission Agency. The return of income for the assessment year 2008-09 was filed on 30.09.2008 declaring a total income of Rs.1,64,660/-. After processing the said Return of Income under the provisions of section 143(1) of Income Tax Act and issuing required notice u/s 143(2), the assessment was completed by the learned Income Tax Officer, Ward-1, Haveri u/s 143 r.w.s. 144A of the Income Tax Act, 1961 vide order dated 30.12.2010 at a total income of Rs.1,43,10,410/-.

While doing so, the learned AO made disallowance of Rs.1,38,96,832/- on account of unproved sundry creditor and also made disallowance of Rs.30,000/- on account of disbelieving agricultural income, etc.

4. Being aggrieved, an appeal was preferred before the CIT(A), Hubli who vide impugned order restricted the addition on account of unproved sundry creditors to the extent of Rs.43,97,867/-. Partial relief was granted by the CIT(A) after calling for the remand report from AO on the additional information filed before it. Being aggrieved, the appellant is before us challenging the confirmation of addition on account of unproved creditors to the extent of Rs.43,97,867/- and the confirmation of addition on account of agricultural income of Rs.30,000/-. The appellant raised 5 grounds of appeal out of which ground Nos. 1 and 5 are general in nature and do not require any adjudication. Ground No. 2 is challenging the addition to the extent of Rs.43,97,867/- on account of unproved sundry creditors. Ground No. 3 challenging the addition on account of disbelieving agricultural income is not pressed before us and hence dismissed as such.

5. Ground No. 4 is only a consequential in nature and does not require any adjudication. Thus the effective ground of appeal is only ground No.2 challenging the addition to the extent of Rs.43,97,867/- on account of unproved sundry creditors. The learned counsel had argued that during the course of proceedings before the AO, the appellant had produced the confirmation letters from all the sundry creditors to prove the genuineness of the creditors. It is further submitted that the sundry creditors are on

account of purchase of seeds from agriculturists. He further submitted that the addition was made on mere assumptions and surmises. The time gap between the purchase of seeds and payment to the creditors is on account of the fact that payments were made to the agriculturists only after completion of certain tests like Germination test and Grow-out test to assess the quality of the seeds supplied by the agriculturists. It is further submitted that the additions were made by the AO based on the report submitted by the inspector with giving an opportunity of rebuttal to the assessee. He finally submitted that the very fact that in the subsequent year the payments were made to sundry creditors would suggest that sundry creditor was genuine and therefore should have been accepted as genuine. He finally he contends that the CIT(A) confirmed the addition to the extent of Rs.43,97,867/- based on the remand report submitted by the AO without furnishing a copy of remand report. In this connection he had drawn our attention to page No. 47 of the paper book wherein the appellant had requested CIT(A) to furnish the copy of remand report. Thus he submitted that the addition was confirmed without any basis to the extent of Rs.43,97,867/-. On the other hand, the learned DR placed reliance on the orders of lower authorities.

6. We heard the rival submissions and perused the material on record. We find from the order of the CIT(A) that no reason was given by him as to why the addition on account of unproved sundry creditors to the extent of Rs.43,97,867/- was confirmed by him. No doubt the CIT(A) had deleted the addition to the extent of 1,12,87,791/- based on the remand report of

the AO. But the appellant was not furnished with a copy of the remand report. Thus the appellant was not made known as to why the addition to the extent of Rs.43,97,867/- was confirmed. Nothing is discernible from the order of the CIT(A) as to why the addition was confirmed. It is trite law that the assessee be made known reasons as to why the addition was confirmed. In the circumstances, in order to meet the ends of justice, we remand the matter back to the file of AO for denovo assessment on this limited issue, after affording due opportunity to the assessee.

7. In the result, the appeal is partly allowed for statistical purposes.

Pronounced in the open court on this 31st day of October, 2016.

Sd/-
(ASHA VIJAYARAGHAVAN)
Judicial Member

Sd/-
(INTURI RAMA RAO)
Accountant Member

Bangalore.
Dated: 31st October, 2016.
/NS/

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.