

IN THE INCOME TAX APPELLATE TRIBUNAL
SMC "C" BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER

ITA No.743/Bang/2014
Assessment year : 2009-10

M/s. R.K.V. Agency, No.3B, 3 rd Floor, Lakshmi Rhythm Apartments, Opp. Kanti Sweets, Kempapura Hebbal, Bangalore – 560 024. PAN: AAJFR 5853K	Vs.	The Deputy Commissioner of Income Tax, Central Circle 2(2), Bangalore.
APPLICANT		RESPONDENT

Appellant by	:	Shri H.V. Gowthama, CA
Respondent by	:	Smt. Swapna Das, Jt. CIT(DR)

Date of hearing	:	27.06.2016
Date of Pronouncement	:	30.06.2016

ORDER

This appeal by the assessee is directed against the order dated 27.03.2014 of the CIT(Appeals)-VI, Bangalore for the assessment year 2009-10 *inter alia* on the following grounds:-

- “1. The learned Commissioner of Income Tax (Appeals) erred in confirming the disallowance of salary paid by the Appellant firm to the employees of the firm for the services rendered.
2. The learned Commissioner of Income Tax (Appeals) ought to have appreciated the fact that the firm could not have earned income without the services of employees and the salaries

were all paid by the Managing Partner to the employees and said Managing Partner was reimbursed by the firm.

3. The learned Commissioner of Income Tax (Appeals) erred in not allowing Bank charges paid by the firm to clear various cheques received by the firm amounting to Rs.25,650/-.

For the above & any other grounds that may advanced at the time of hearing, the Appeal be allowed.”

2. During the course of hearing, the Id. counsel for the assessee has invited our attention to the orders of lower authorities with the submission that the assessee company is a insurance agent of Bajaj Allianz and during the course of assessment proceedings none represented the assessee and the AO disallowed the entire expenditure and assessed income at Rs.4,52,76,540.

3. Though the assessee preferred an appeal before the CIT, but it did not find favour with him and the CIT(Appeals) rejected the contentions of the assessee on the ground that the assessee has neither furnished details of expenditure nor has justified the expenditure incurred.

4. The Id. counsel for the assessee contended that in similar type of facts in the case of Sri Agency (ITA No.744/Bang/2014 dated 11.6.2015), the Tribunal has restored the matter to the Assessing Officer with a direction to frame the assessment *de novo* after affording the assessee an opportunity of being heard. Copy of the order is placed on record.

5. The Id. DR simply placed reliance on the order of the CIT(Appeals).
6. Having carefully perused the orders of lower authorities in the light of rival submissions, we find that before the AO none appeared on behalf of the assessee and the CIT(Appeals) did not admit the explanation and the evidence for the simple reason that the assessee could not file the evidence before the AO. We have also carefully examined the order of the Tribunal in the case of *Sri Agency (supra)* in which under similar circumstances, the Tribunal has set aside the order of the CIT(Appeals) and restored the matter to the AO for framing the assessment *de novo*. We, therefore, following the same, set aside the order of the CIT(Appeals) and restore the matter to the AO to frame the assessment *de novo* after affording the assessee an opportunity of being heard.
7. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 30th day of June, 2016.

Sd/-

(SUNIL KUMAR YADAV)
Judicial Member

Bangalore,
Dated, the 30th June, 2016.
/D S/

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore.