

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

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
AND SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

ITA No.930/Bang/2014
Assessment year : 2009-10

Smt. Geetha Mahadev Gowda, No.28/1, 6 <sup>th</sup> Main, 9 <sup>th</sup> Cross, Malleshwaram, Bangalore – 560 003. <b>PAN: ABTPG 3452C</b>	Vs.	The Income Tax Officer, Ward 11(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Sandeep C., CA
Respondent by	:	Shri M.K. Biju, CIT(DR)(ITAT-3), Bengaluru

Date of hearing	:	01.03.2017
Date of Pronouncement	:	28.04.2017

**ORDER**

*Per Sunil Kumar Yadav, Judicial Member*

This appeal is preferred by the assessee against the order of  
CIT(Appeals) *inter alia* on the following grounds:-

“1. That the order of the learned Commissioner of Income Tax (Appeals), in so far it is prejudicial to the interests of the appellant, is bad and erroneous in law and against the facts and circumstances of the case.

2. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in holding that the sum of Rs. 17,86,346/- is to be added U/S 68 of the Act just because the

supporting sales bills evidencing sale of vegetables to small vendors was not made available.

3. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in holding that there is a difference between the details furnished to the assessing officer and the details in the cash sales register and his finding in para 4.6 of the appellate order is perverse as being contradict to the materials on record.

4. Without prejudice to Para 3, the learned Commissioner of Income Tax (Appeal) erred in law and on facts in not giving the opportunity to the appellant to explain the correct position.

5. Without prejudice to all the above grounds 2 to 4, the learned Commissioner of Income Tax, (Appeals) erred in law and on facts in holding that the entire amount of Rs. 17,86,346 represents unexplained cash credits and ought to have estimated the unexplained cash credits at a much lower figure taking into account the facts and circumstances of the case.

Each of the above grounds is without prejudice to one another and the appellant craves leave of the Hon'ble Income Tax Appellate, Bangalore to add, delete, amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal.”

2. During the course of hearing, the Id. counsel for the assessee has invited our attention that the AO has disbelieved the agricultural income shown by the assessee and has made the addition of the difference in the sale proceeds shown in the profit & loss account and statement filed by the assessee.

3. Before the CIT(Appeals), assessee has contended that AO has not taken cognizance of correct figures of sale proceeds. The CIT(Appeals)

called for a remand report from the AO in this regard and in the remand report the AO reiterated that the total sales as per details submitted during the assessment proceedings were of Rs.93,80,655 as against the amount of gross sale of Rs.1,11,66,001 shown as per the profit & loss account. The AO has also observed that the assessee was asked to furnish bills for differential amount, but it was not furnished. Relying upon the remand report, the CIT(Appeals) confirmed the additions.

4. Now the assessee is before us and invited our attention to the rejoinder to remand report with the submission that it was the mistake of the AR of assessee by stating that the details were not available, whereas the details are available in the daily cash register filed along with the rejoinder to the remand report. The assessee has filed the details of total sales. All these evidence was not examined by the CIT(Appeals) while confirming the addition. He has simply relied upon the remand report and confirmed the addition.

5. The Id. DR simply placed reliance on the order of CIT(Appeals).

6. Having carefully examined the order of lower authorities in the light of rival submissions, we find that the assessee has filed the rejoinder to the remand report along with details of daily sales. If the total sales are to be worked out including the daily sales, it would come to Rs.1,11,66,001 and there would not be any difference in the sale proceeds of agricultural produce. Since the CIT(Appeals) has not examined the details of daily

sales, we are of the view that this matter should go back to the CIT(Appeals) for readjudication of the issue afresh. We accordingly set aside the order of CIT(Appeals) and restore the matter to his file with a direction to readjudicate the issue afresh, after affording opportunity of being heard to the assessee in the light of details of daily sales shown in the register.

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

Pronounced in the open court on this 28<sup>th</sup> day of April, 2017.

Sd/-

( S. JAYARAMAN )  
Accountant Member

Sd/-

(SUNIL KUMAR YADAV )  
Judicial Member

Bangalore,  
Dated, the 28<sup>th</sup> April, 2017.

/ Desai Smurthy /

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore.