

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SHRI GEORGE GEORGE K, JUDICIAL MEMBER**

ITA No.1380/Bang/2019
Assessment Year: 2014-15

Mr. Somashekhar Iranna Vadavadagi, Anugrapha Nilaya, Ganesh Nagar, Behind KEB, Talikoti – 586 214. PAN NO : APDPV 4826 P	Vs.	ITO, Ward – 3, Vijayapura.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri. Kannan Narayanan, D.R.

Date of Hearing	:	01.12.2020
Date of Pronouncement	:	01.12.2020

O R D E R

PER CHANDRA POOJARI, ACCOUNTANT MEMBER:

This appeal is by the assessee directed against the order of CIT(A) dated 12.03.2019.

2. The assessee raised the following grounds:
 1. *The impugned appellate order passed by the Commissioner of Income Tax (Appeals), Hubballi, is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.*
 2. *The learned Commissioner of Income Tax (Appeals) is not justified in passing the impugned order without affording adequate opportunity of representation to the appellant and*

- bringing on record all the information and documents in support of the case on the facts and circumstances of the case.*
3. *The learned Commissioner of Income Tax (Appeals) is not justified in upholding the assessment order passed u/s 144 of the Act in as much as the said assessment order is not sustainable in law on the facts and circumstances of the case.*
 4. *The learned Commissioner of Income Tax (Appeals) erred in confirming the addition to the extent of Rs. 57,49,010/- made by the assessing officer on the facts and circumstances of the case.*
 5. *The learned Commissioner has grossly erred in effectively upholding and confirming the addition made by the assessing officer of Rs. 53,97,810/- in respect of the cash deposits in the bank account as unexplained money u/s 69A of the Act even though section 69A of the Act has no applicability whatsoever on the facts and circumstances of the case.*
 6. *The learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs. 53,97,810/- in respect of the cash deposits in the bank account by holding that the appellant had submitted that he had no proof or details of customers, expenses, etc., on the facts and circumstances of the case.*
 7. *The learned Commissioner of Income Tax (Appeals) ought to have appreciated that even though there were deposits in bank account to the extent of Rs. 53,97,810/-, substantial part of these deposits came out of the earlier withdrawals from the very same bank account on the facts and circumstances of the case.*
 8. *The learned Commissioner of Income Tax (Appeals), failed to appreciate that the major part of the cash deposits was out of the turnover of the business admittedly carried on by the appellant on the facts and circumstances of the case.*
 9. *The learned Commissioner of Income Tax (Appeals) further failed to appreciate that the entire business turnover itself does not and could not have constituted the income of the appellant and the resultant net profit thereon as submitted by the appellant alone is the income of the appellant on the facts and circumstances of the case.*
 10. *The learned Commissioner of Income Tax (Appeals) also failed to appreciate that the appellant has earned agricultural income which were part of the amounts deposited in the bank account on the facts and circumstances of the case.*
 11. *The learned Commissioner of Income Tax (Appeals) erred in confirming the amount of Rs.3,51,200/- in respect of the addition made by the assessing officer as admitted profit from*

speculation business on the facts and circumstances of the case.

12. *The learned Commissioner of Income Tax (Appeals) failed to appreciate that the correct amount of profit from speculation business which was also admitted by the appellant is only Rs.34,023/- and not Rs. 3,85,223/- which is erroneously added by the assessing officer on the facts and circumstances of the case.*
13. *The appellant craves leave of this Hon'ble Tribunal, to add, alter, delete, amend or substitute any or all of the above grounds of appeal as may be necessary at the time of hearing.*
14. *For these and other grounds that may be urged at the time of hearing of appeal, the appellant prays that the appeal may be allowed for the advancement of substantial cause of justice and equity.*

3. The facts of the case are that in the Assessment Order passed ex-parte against which the assessee went in appeal before CIT(A). CIT(A) observed that assessee has deposited Rs. 53,97,810/- in FD account in Karnataka Bank Ltd., and State Bank of India. The same was treated as income of the assessee from unexplained sources. Similarly, there was an income from speculation business at Rs.3,85,223/- and Rs.20,000/- from interest on FD and Rs.2,048/- as interest on bank balance and Rs.4,13,450/- from agricultural income. Out of this, a sum of Rs.4,07,271/- treated as assessee's taxable income. Thus, CIT(A) confirmed the total addition of Rs.60,45,081/- as the assessee failed to furnish any evidence to show that these are not the income of the assessee.

4. Before us, none appeared for the assessee. We have considered the various grounds of appeal raised by the assessee. In our opinion, assessee should be given one more opportunity to present his case before CIT(A) as the assessee failed to appear before the AO on various occasions and also only one opportunity of being heard was given to assessee on 11.03.2019 by CIT(A). Hence, in the interest of natural justice, we remit this entire issue to

the file of AO for a fresh consideration. AO has to give one more opportunity of being heard to the assessee in accordance with law.

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

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(GEORGE GEORGE K)
Judicial Member

Sd/-

(CHANDRA POOJARI)
Accountant Member

Bangalore,
Dated : 01.12.2020.
NS*

Copy to:

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

By order

**Asst. Registrar,
ITAT, Bangalore.**