

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

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.167/Bang/2018
Assessment Year:2013-14

M/s. Smartowner Services India Pvt. Ltd. 8 th Floor, Delta Block, Sigma Tech Park Whitefield – Varthur Road Near Ramagondanahalli Bengaluru-560 066 PAN NO : AARCS7066C	Vs.	ITO Ward-6(1)(2) Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Smt. K. Soumya, A.R.
Respondent by	:	Shri Priyadarshi Mishra, D.R.

Date of Hearing	:	09.11.2020
Date of Pronouncement	:	01.12.2020

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 23.10.2017 passed by Ld. CIT(A)-6, Bengaluru and it relates to assessment year 2013-14. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the disallowance of Rs.53,52,643/- and Rs.21,08,384/- claimed by the assessee as expenses.

2. We have heard the rival submissions and perused the materials available on record. The assessee company was incorporated on 19.6.2012 and hence this is the first year of

Page 2 of 4

operation. It is engaged in the business of real estate brokerage through e-platform. It filed this return of income declaring a total income of Rs.2,71,720/-. During the course of hearing, the A.O. asked for various details relating to brokerage and commission expenses of Rs.53,52,642/- and also legal & professional fees of Rs.21,08,384/-. Since the assessee did not furnish the details, the A.O. disallowed both the expenses cited above. The Ld. CIT(A) also confirmed the same and hence the assessee has filed this appeal before us.

3. The Ld. A.R. submitted that the assessee's model of business is transparent, since all the transactions were conducted through web portal only. Further the payments towards brokerage, legal and professional charges were subjected to TDS obligations. Even though certain documents were furnished before AO/CIT(A), for the reasons beyond the control of the assessee, all documents required by the A.O. could not be furnished before him. The Ld. A.R. submitted that the assessee has collated all the documents in the form of 2 paper books and furnishing the same as additional evidences along with an application under rule 29 of the Appellate Tribunal Rules praying admission of the additional evidences. The Ld A.R submitted that the assessee was expecting another hearing opportunity before Ld CIT(A), so that it could furnish the documents before him. However, the Ld. CIT(A) has passed the order without giving further opportunity and hence these documents are produced before the Tribunal as additional evidences. Accordingly, the Ld. A.R. prayed that these evidences be admitted and the matter may be restored to the file of the A.O. for examining both the issues afresh.

4. We have heard the Ld. D.R. and perused the record. Having regard to the submissions made by Ld. A.R., in the interest of natural justice, we are of the view that the additional evidences furnished by the assessee should be admitted. In fact, the admission of additional evidences and examining them afresh would promote the cause of justice. Accordingly, we admit the additional evidences furnished by the assessee. Since the impugned additions have been made for want of evidences and since the assessee has filed the evidences in the form of additional evidences, we are of the view that both the issues require fresh examination at the end of the A.O. by duly considering the additional evidences. Accordingly, we set aside the order passed by Ld. CIT(A) and restore both the issues to the file of the A.O. for examining it afresh after considering the additional evidences and also any other evidence and explanations that may be furnished by the assessee before him. After affording adequate opportunity of being heard to the assessee, the A.O. may take appropriate decision in accordance with law.

5. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 1st Dec, 2020

Sd/-
(George George K.)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 1st Dec, 2020.
VG/SPS

Page 4 of 4

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.