

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" "A" BENCH, BENGALURU**

Before Shri B.R. Baskaran, Accountant Member

ITA Nos. 161 & 162/Bang/2022
(Assessment Years: 2014-15 & 2015-16)

Mrs. Amritha Raj
301, Mothisham Heritage Appts.
Mannagudda, Gandhinagar
Mangaluru 575003

ACIT, Central Circle - 2
Mangaluru

Vs.

PAN – AOYPR9834B

Appellant

Respondent

Appellant by: Ms. Sunaina Bhatia
Respondent by: Shri Ganesh R. Ghale
Standing Counsel for Revenue

Date of Hearing: 01.06.2022

Date of Pronouncement: 01.06.2022

ORDER

Per: B.R. Baskaran, A.M.

Both the appeals filed by the assessee are directed against the order passed by the learned CIT(A)-2, Panaji and they relate to assessment years 2014-15 and 2015-16.

2. At the time of hearing it was noticed that the assessee did not appear before the learned CIT(A) and hence the Ld CIT(A) was constrained to passé the orders ex-parte, without hearing the assessee. It was also noticed that the assessee did not appear before the AO also and hence the AO has passed the orders to the best of his judgement under Section 144 of the Income Tax Act, 1961 (hereafter "the Act").

3. The learned A.R. submitted that the Department has carried out a search and seizure operation in the case of Shri Vivek Rajendra Bikarnakatte and group of cases on 01.12.2017. The assessee herein is

wife of Shri Vivek Rajendra, who was also subjected to search. Besides the above, the assessee is also one of the Directors of the group company named M/s. Panama Nature Fresh Pvt. Ltd. The learned A.R. submitted that it was the understanding of the assessee that the purchase of jewellery as well as deposits of money into the bank account are being assessed in the hands of the assessee's husband. However, they were assessed in the hands of the assessee and hence the assessee filed appeals before the learned CIT(A). The learned A.R. submitted that the assessee could not appear before the learned CIT(A) for reasons beyond her control. Since the CIT(A) passed the orders ex-parte, the assessee has filed these appeals challenging the decision of the learned CIT(A). The learned A.R. submitted that the assessee has a good case on merits and accordingly prayed that the appeals may be heard.

4. The learned D.R., on the contrary, submitted that the assessee has not appeared before the AO as well as the CIT(A). Accordingly he submitted that the order passed by the learned CIT(A) should be upheld.

5. I heard the parties and perused the record. I notice that the learned CIT(A) has passed the impugned order ex-parte, without hearing the assessee, since the assessee did not appear before him despite of giving several opportunities. The learned A.R. submitted that the assessee was under the bona fide belief that the undisclosed income shall be assessed in the hands of the assessee's husband. However, this explanation does not support the case of non-appearance. At the same time, the natural justice would call for giving opportunity of hearing to the assessee. Accordingly in my view the assessee may be provided with one more opportunity to present her case properly before the CIT(A). However, since the assessee has not afforded proper reasons for not appearing before the tax authorities, I am of the view that the assessee shall be imposed cost. Accordingly I impose a cost of Rs.10,000/- (Rs.5,000/- for each AY), which shall be paid to the credit of the Income Tax Department within one month from the date of receipt of this order by the assessee as other fees. Subject

to the payment of the above said cost, I set aside the orders passed by the learned CIT(A) in both the assessment years under consideration and restore all the issues to his file for examining them afresh after affording adequate opportunity of being heard to the assessee. I also direct the assessee to appear before the learned CIT(A) without fail for expeditious disposal of the appeals.

6. In the result, both the appeals filed by the assessee are treated as allowed for statistical purposes.

Order pronounced in the open Court on 1st June, 2022.

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

Bengaluru, Dated: 1st June, 2022

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -2, Panaji*
4. *The Pr.CIT - (Central) Bengaluru*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

By Order

//True Copy//

Assistant Registrar
ITAT, Bengaluru

n.p.