

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI. CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No. 519/Bang/2019
Assessment Year : 2014-15

The Income-tax Officer, Ward - 2(3)(4), Bangalore.	Vs.	Dr. Sunitha Agarwal, No. 15, Eagle Street, Langford town, Bangalore. PAN: AACPA7991G
APPELLANT		RESPONDENT

Assessee by	:	None
Revenue by	:	Shri Priyadarshi Mishra, Addl. CIT (DR)

Date of Hearing	:	28-03-2022
Date of Pronouncement	:	28-03-2022

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present appeal has been filed by revenue against the order dated 28.12.2018 passed by the Ld.CIT(A)-2, Bangalore for Assessment Year 2014-15 on following grounds of appeal.

- "i) The Id.CIT(A) erred in law and facts of the case in deleting the addition of Rs. 1,64,63,000/-.*
- ii) The Id.CIT(A) failed to consider the fact that the self made vouchers and case sheets of the patient do not prove the genuineness of the transaction in absence of such confirmation by the patient and therefore they do not prove the identity of the creditor of advance also.*
- iii) The Id.CIT(A) ought to have considered the fact that the assessee has failed to establish that the advances are recognized as revenue in subsequent years.*
- iv) For these and such other grounds that may be urged at the time of hearing it is prayed that the order of Assessing Officer be upheld and that of the Id.CIT(A) be quashed."*

2. Brief facts of the case are as under:

Before us today none appeared on behalf of assessee. From the order sheet notings, we note that ample opportunity was granted to the Ld.AR. The Ld.AR had filed the Power of Attorney vide stamp paper dated 17.07.2019. Thereafter the appeal was listed for hearing on 23.07.2019, 02.10.2020, 25.08.2021. Every time the Ld.AR appeared and took adjournment as per the convenience. From past two occasions, none was appearing. Notice intimating the date of hearing was also sent in the month of December which was returned back.

In view of this, we proceed to adjudicate the appeal after hearing the Ld.DR and document placed on record.

2.1 During the year under consideration, the assessee in the balance sheet filed along with the return of income under the head "Sundry Creditors" had shown an amount of Rs.1,64,63,000/-. During the asst. proceedings the assessing officer had sought for supporting documents/ bills/ receipts/ invoices in support of the claim made. The assessee vide her reply dated 16.12.2016 stated that the advances were received from overseas customers who are being introduced by various agents, the management is in the process of obtaining the confirmation and other details and the same will be submitted in the subsequent hearing time.

The Ld.AO observed that the assessee failed to furnish details as was stated by her, in the absence of the same, the Ld.AO was constrained to make the addition of entire amount of Rs. 1,64,63,000/-.

During the course of appellate proceedings the assessee stated before the Ld.CIT(A) that with the development of medical tourism in India a very large number of patients and their relatives take advantage of the advance medical facilities available in Indian

hospital and with doctors practicing in India. Many patients come India on their own and many come through a large number of agents, who puts them in touch with the hospitals, doctors etc., arrange their arrangements such as visas, accommodation in India and appointments with the Doctors. The patients who come through these agents are often completely unknown to the Doctors who often do not know the where about of them. When they came they pay the requisite fee for treatment which may last for entire duration of their treatment. The entire treatment is collected in advance and usually in the form of cash. That is why there is an item called advance received from patients in the balance sheet. As and when the treatment is complete the advance will be treated as income/ revenue receipt, by transfer from the balance sheet to the Profit & Loss account. The assessee also furnished the particulars of the advance received for treatment.

2.2 Ld.CIT(A) vide letter dated 24.11.2017 called on assessee to establish whether the corresponding income was 'recognized as Revenue in the subsequent years and the expenditure is then set off. The assessee vide her letter dated Nil submitted in this office on 27.11.2017 stated that direct cost is bare minimum. Most of the expenses are indirect in nature i.e. most of the expenses are fixed in nature. The expense does not vary with the variance in the revenue. Therefore, the observation that capitalizing the cost relevant to advances received may not be material in nature.

2.3 The contention of the assessee was not accepted for the reason that on verification of the case sheet furnished by the assessee the Ld.CIT(A) observed that there is no proper and complete address of the patients other than the name of the patient and the name of the country. The Ld.CIT(A) observed that inspite of affording sufficient opportunity of hearing during the asst. proceedings she failed to

furnish the requisite details which is not clear. The assessee also did not furnish any bank entries relating to each of the receipts. In the absence of the complete arid substantive material evidence in support of the claim made, the addition made by the Ld.AO was upheld.

Aggrieved by the order of the Ld.CIT(A), assessee is in appeal before this *Tribunal*.

2.4 The crux of the issue is that the amount received as advance from overseas patients is wrongly treated as revenue by the Officer. Such advances include sum of amounts wrongly classified as gifts.

We note from the submissions advanced by assessee before authorities below that:

- (i) The advances are recognized as revenue in subsequent years.
- (ii) The cost of expenditure towards these patients are capitalized and adjusted in the year of revenue recognition.

2.5 The A.O. proceeded his enquiry in this direction and the assessee failed to satisfactorily explain the compliance.

2.6 The advance received from patients cannot remain perpetually so and even after passage of 46 months, it has not been recognized as revenue. Hence the claim of the assessee that the receipts are capital in nature may not be entertained.

3. Revenue before us is alleging the genuineness of transaction pertaining to the advances received from patients to the extent of Rs. 1,64,63,000/-. The Ld.CIT(A) called for remand report during the first appellate proceedings as according to which the assessing officer made categorical observation that the advances received from patients cannot remain perpetually so even after passage of 46 months. The Ld.AO observed that assessee had not recognised the same as revenue

and hence it was to be held as capital receipt in the hands of assessee. From the assessment order, it is verifiable that assessee had not filed confirmation from the patients from whom such advances were received. It is also noted that Ld.CIT(A) has not verified the genuineness of the transaction based on any evidences that was filed except for the reasoning that assessee has shown the advance received of Rs. 1.64 Crores to be revenue in subsequent Assessment Year.

4. We note that the Ld.CIT(A) has deleted the addition based on certain confirmation letters which has not been elaborated upon in the appellate order. We, therefore, direct the Ld.CIT(A) to once again carry out a detailed verification in respect of the various evidences that were filed. Accordingly, we set aside this issue back to Ld.CIT(A) for verification in accordance with law.

In the result, the appeal filed by revenue stands allowed for statistical purposes.

Order pronounced in the open court on 28th March, 2022.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 28th March, 2022.
/MS /

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

By order

Assistant Registrar,
ITAT, Bangalore