

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'C', BANGALORE

SHRI. ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

I.T.A No.407/Bang/2016
(Assessment Year : 2007-08)

Mrs. Priyanka Venkatesh
Nee N. P. Priyanka, No.20, 4th Cross, West of Kanakapura Road,
7th Block, Jayanagar, Bengaluru 560 082 .. Appellant
PAN : ALLPP5197M

v.

Income-tax Officer,
Ward – 3(3)(4), Bengaluru .. Respondent

Assessee by : Shri. K. Y. Ningoji Rao, CA
Revenue by : Shri. Bipin C. N, JCIT

Heard on : 13.07.2016
Pronounced on : 26.08.2016

ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER :

In this appeal filed by assessee, it has altogether taken six grounds of which ground.1 is general in nature, grounds 5 and 6 are on levy of interest

u/s.234A and 234B of the Income-tax Act,1961 ('the Act' in short), which are consequential in nature needing no specific adjudication.

02. In its ground.2, assessee assails denial of deduction of interest of Rs.2,02,125/-, u/s.24(b) of the Act. Facts apropos are that assessee had claimed a sum of Rs.2,02,125/- against rental income as interest paid. Confirmation letter from one Sri Lakshmi Enterprises was filed in this regard. As per the assessee it had taken a loan of Rs.17,25,000/- from Sri Lakshmi Enterprises for construction of the building on which rent was shown as income. However, AO did not accept this. As per the AO, confirmation letter filed from Sri Lakshmi Enterprises did not mention what was the interest payable by the assessee. As per the AO, claim of the assessee was not in conformity with Section 24(b) of the Act. He made disallowance of Rs.2,02,125/-.

03. In its appeal before CIT (A) argument of the assessee was that Sri Lakshmi Enterprises was owning a property which was given as a security for raising a loan from ING Vysya Bank. Contention of the assessee was that ING Vysya Bank had issued DDs for purchasing the property on which rental income was declared. Assessee submitted that Sri Lakshmi Enterprise was a real estate concern. DDs were issued by ING Vysya

Bank, based on the loan application submitted by Sri Lakshmi Enterprises. Therefore the loan interest was paid by the assessee to ING Vysya Bank through the said firm. However, the above contention was not accepted by the CIT (A). According to him, liability to pay interest on money borrowed from the bank was that of Sri Lakshmi Enterprises and not of the assessee.

04. Now before us, Ld. AR strongly assailing the orders of lower authorities submitted that copy of the bank account of Sri Lakshmi Enterprises with ING Vysya Bank, placed at paper book page 24 clearly reflected that DDs were issued on 26.06.2005. As per the Ld AR, in the purchase deed of the property on which rental income was returned by the assessee, details of consideration paid clearly mentioned the DDs issued by ING Vysya Bank Ltd. As per the Ld. AR, just because the loans were routed through Sri Lakshmi Enterprises would not disentitle the assessee from claiming exemption of interest u/s. 24(b) of the Act.

05. Per contra, Ld. DR supported the orders of the lower authorities.

06. I have perused the orders and heard the rival contentions. Section 24(b) of the Act, is reproduced hereunder :

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital :

07. Requirement as per the above section is that borrowed capital has to be used for acquisition or construction of a property. If it is so used the amount of interest payable has to be allowed as a deduction under the said section. Assessee has clearly demonstrated that the DDs paid for the purchase of property on which rent was returned by her were issued by ING Vysya Bank Ltd. DD Numbers and other details have been mentioned in the sale deed dt.27.06.2005. In the bank statement of Sri Lakshmi Enterprises with ING Vysya Bank Ltd, the issuance of the above DDs has been clearly mentioned as 25.06.2005. It is not required under the law that the loan obtained for acquiring a property should be from a scheduled or nationalised bank. Assessee having raised the loan through Sri Lakshmi Enterprises payment of interest to the said firm was an allowable deduction since loan amount was used for acquisition of property. I am of the opinion that disallowance was not warranted. Such disallowance stands deleted. Ground.2 stands allowed.

08. Vide grounds 3 and 4, grievance raised by the assessee is that rental income from furniture and fixtures coming to Rs.3,10,650/- was considered under the head 'income from other sources'.

09. In this regard, what I find is that CIT (A) has given a clear finding that agreements were separate. Assessee had two agreements, one for renting out the premises and the second for renting out the furniture and fittings. There is nothing on record to show that the furniture and fixtures which were rented out separately were an integral part of the building. In such a situation I cannot fault the lower authorities in taking a view that rental income had to be considered under the head 'income from other sources'. I do not find any reason to interfere with the orders of lower authorities. Grounds 3 and 4 stand dismissed.

10. In the result, appeal of the assessee stands partly allowed.

Order pronounced in the open court on 26th day of August, 2016.

Sd/-

(ABRAHAM P GEORGE)
ACCOUNTANT MEMBER

MCN

Copy to:

1. The assessee
2. The Assessing Officer
3. The Commissioner of Income-tax
4. Commissioner of Income-tax(A)
5. DR
6. GF, ITAT, Bangalore

By Order

Assistant Registrar