

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

SHRI. ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

I.T.A No.567/Bang/2014
(Assessment Year : 2006-07)

Shri. N. Puttaraju,
No.1, 2nd Cross,Obaiah Lane, Akkipet Cross,
Bengaluru 560 053 .. Appellant
PAN : AKQPP0241E

v.

Income-tax Officer,
Ward – 1(3), Bengaluru .. Respondent

Assessee by : Smt. Sheethal Borkar, Advocate
Revenue by : Shri. S. Sundar Rajan, JCIT (OSD)

Heard on : 08.06.2016
Pronounced on : 24.06.2016

ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER :

Grievance raised by assessee in this appeal is regarding addition of Rs.20,05,000/- made by the AO and sustained by the CIT (A).

02. Facts apropos are that assessee, a pigmy agent had filed return declaring income of Rs.1,05,326/-. AO had AIR information that assessee had deposited a sum of Rs.20,63,210/- in Syndicate Bank, BWSSB Branch,

Bengaluru on 31.03.2006. Explanation of the assessee was sought on the source of the above deposit. Assessee thereupon produced before the AO a sale agreement entered by him with one Shri. M. Satish, Smt. Kamala and Smt. Bhagyamma for sale of property owned by him at Byatarayanapura. As per the assessee, pursuant to the sale agreement, he had received a sum of Rs.10 lakhs from Shri. M. Satish, Rs.6 lakhs from Smt. Kamalamma and Rs.4 lakhs from Smt. Bhagyamma. Smt. Kamalamma was the mother of Shri. M. Satish and Smt. Bhagamma was his grandmother. Affidavits were also filed except from Smt. Bhagyamma who expired on 21.07.2008. Assessee also filed death certificate in support of this. AO examined Shri. M. Satish and Smt. Kamalamma and they confirmed that they had paid the sums to the assessee, based on the sale agreement mentioned above. Contention of the assessee was that sale could not go through for many reasons and had to pay back the amount in a later year. AO was not impressed by the above arguments. According to him, money was received by the assessee in cash. Concerned parties were not resourceful enough to pay so much money to the assessee. As per the AO, assessee had not accounted the advance received from these parties in the balance sheet filed along with the return for the impugned assessment year. He disbelieved the version of the assessee and made an addition of Rs.20,05,000/-.

03. Aggrieved assessee moved in appeal before the CIT (A). Argument of the assessee was that all the three persons except Smt. Bhagyamma had appeared before the AO and confirmed the sale agreement. Further as per the assessee, Smt. Bhagyamma could not appear since she was no more. In any case according to the assessee, the sale agreement by itself proved receipt of money from Shri. M. Satish, Smt. Kamamma and Smt. Bhagyamma. However, CIT (A) was not impressed by the above contentions of the assessee. According to him in the balance sheet filed along with the return of income did not show the advances received from these parties for sale of the property. Thus according to CIT (A), version of the assessee could not be believed. Further according to CIT (A), assessee had stated that the sum of Rs.20,05,000/- was transferred by him to wife Smt. Saraswathi. This transaction was also not reflected in the balance sheet. Hence he confirmed the addition.

04. Now before us, Ld. AR has filed an application under Rule 29 of Appellate Tribunal Rules, 1963 through which he pleads for admission of additional evidence in the nature of a gift deed executed by Smt. Lakshmidiamma , mother of the assessee. Assessee also wants to file a copy of the return for A. Y. 2007-08. As per the Ld. AR during the course

of assessment proceedings assessee had filed revised balance sheet which had property reflected the advances received from the three parties for sale of the land and the amounts given by the assessee to his wife. According to her, lower authorities disregarded the revised balance sheet, and made the addition.

05. Per contra, Ld. DR submitted that assessee could not prove the credit worthiness of the creditors. According to him, proving genuineness alone was not sufficient for accepting a credit. Further as per the Ld. DR the documents now sought to be filed by the assessee were never produced before the lower authorities and assessee could not give any reason why these documents could not be so produced before the lower authorities.

06. We have perused the orders and heard the rival contentions. Undisputedly there was an agreement entered by the assessee with Shri. M. Satish, Smt. Kamamma and Smt. Bhagyamma for sale of land owned by him. As per this agreement assessee had received altogether Rs.20 lakhs from these three persons. Lower authorities have not doubted the genuineness of this agreement. Shri. Satish and Smt. Kamamma had appeared before the AO and confirmed the fact of having entered into agreement and having paid the money to the assessee. Assessee had also

produced death certificate of Smt. Bhagyamma. It was not a loan taken by the assessee from these persons. Assessee was trying to sell a piece of property owned by him for which he received these sums as advance. Genuineness of these transactions has not been doubted. Question of explaining the credit worthiness would come only if a party appears as a creditor. This is not the case here. Assessee had received advance for selling his property and the persons had advanced the money for purchasing the property. They were not creditors of the assessee. In such circumstances, we are of the opinion that it was not required by the assessee to show the credit worthiness of the parties. He had produced evidence sufficient enough to believe the transactions. Assessee had filed revised Balance-Sheet during the course of assessment proceedings reflecting these transactions. It could be an instance of genuine mistake that assessee did not show the above in the balance sheet filed by her along with the return. However, in my opinion, this would not be a reason to disbelieve the sale agreement and the money received by the assessee by virtue of the sale agreement. In my opinion, assessee had produced sufficient evidence to show the source of Rs.20,05,000/-. Addition was not justified. Addition is deleted. In the circumstances the question of admitting additional evidence does not arise.

07. In the result, appeal of the assessee stands allowed.

Order pronounced in the open court on 24th day of June, 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