

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

**BEFORE SMT. ASHA VIJAYARAGHAVAN, JUDICIAL MEMBER
and
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.671/Bang/2013
(Assessment year: 2009-10)

Shri K.V.Subramaniam,
No.15, Sai Smaran Apartments,
17th Cross, 35 A Main,
JP Nagar VI Phase,
Bangalore-560078. ... Appellant
PA No.AQGPS 0686 J

Vs

Income-tax Officer,
Ward 15(2)
Bangalore. ... Respondent

Appellant by : Shri Bharadwaj Seshadri, CA.
Respondent by : Shri SunilKumar Agarwal, JCIT(DR)

Date of hearing : 20/06/2016
Date of pronouncement : 30/06/2016

O R D E R

Per INTURI RAMA RAO, AM :

This is an appeal filed by the assessee directed against the order of the CIT(A)-IV, Bangalore, dated 19/03/2013 for the assessment year 2009-10.

2. The assessee raised the following grounds of appeal:
 1. The orders of the Assessing Authority and the Appellate Authority are opposed to facts and bad in law.

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2. The orders of the Assessing Authority and CIT (A) are contrary to law and they failed to appreciate the facts and weight of evidence on record.
3. The orders of the Assessing Authority and CIT (A) are against the principles of legitimate expectations entitled by the Appellant.
4. The Learned Appellate Authority has erred in confirming the order of Assessment confirmed the income as unexplained investment, which is not correct. The Appellant is a salaried employee and has got limited income. The Appellant had obtained top up loan from the City Bank and given the same to his father, later his father has deposited to his account of Rs. 9,00,000/- cash on 10.02.2009, which is clearly shows in his statement of accounts. On 14.02.2009 , the Appellant has obtained loan from his relatives, same has been deposited a sum of RS. 9,00,000/- by cash. Another a sum of Rs. 9,00,000/- has taken into account of the Appellant wrongly, since the said amount clearly shows that in the statement of account of Sri. S..Vairavan, the father of the Appellant. The statement of accounts dated 16.02.2009 is produced herewith the statement of his father. Therefore the Assessing Authority has erred in added back the cash deposits is erroneous. Such being the case, treating the same as unexplained investment is bad in law.
5. The Learned Assessing Officer as well as the Learned Commissioner have erred in adding a sum of Rs. 1,50,000/- towards disallowance of House Property loss, when evidence is of certificate of interest and statement of housing loan from M/s. Citibank NA was produced on 30.11.2011. Such being the case, treating the same as unexplained investment is bad in law.
6. The Learned Assessing Officer as well as the learned Commissioner have erred in adding a sum of Rs.55,000/- towards disallowance of payment of principal under section 80C(5)(iii) a & b house property loss when evidence is statement of housing loan from M/s. Citybank NA produced on 30.11.2011. Such being the case, treating the same as unexplained

investment is bad in law.

3. Briefly, facts of the case are that the assessee is an individual. Return of income for the assessment year 2009-10 was filed on 28/7/2009 declaring total income of Rs.5,09,160/-. After processing the said return of income under the provisions of sec.143(1) the case was selected for scrutiny and the assessment was completed u/s 143(3) vide order dated 30/12/2011 at a total income of Rs.34,32,590/-. While doing so, the AO made addition of Rs.27,18,000/- as unexplained cash deposits and disallowed loss from house property of Rs.1,50,000/-.

4. Being aggrieved, an appeal was filed before the CIT(A) who, vide the impugned order, dismissed the appeal.

5. Being aggrieved, assessee is before us in the present appeal. The first ground of appeal relates to addition on account of cash deposits in bank account of Rs.27,18,000/-. Learned AR of the assessee submitted that the AO was not justified in making addition of Rs.27,18,000/- without establishing that it represents undisclosed income in the hands of the assessee.. He further submitted that the following deposits were made out of sale proceeds of property situated at Plot No.4, Survey No.41/3, Devi Karumariamman Nagar, Kolapakkam village, Sriperumbudur Taluk, Kanchipuram District, Tamilnadu:

Date	Bank Account	Amount (Rs.)
17.05.2008	Citibank Savings Bank Account No. 5811807801	18,000
10.02.2009	ICICI Bank Savings Bank Account No. 027501512238	9,00,000
10.02.2009	Citibank Savings Bank Account No. 5811807801	9,00,000
14.02.2009	Citibank Savings Bank Account No. 5811807801	9,00,000
	TOTAL	27,18,000

The said contention was rejected by the CIT(A) holding that sale consideration in the said sale deed was received by way of cheque for Rs.24,00,000/- and there was no mention about receipt of consideration in cash in the sale deed. Except making bald statement before the CIT(A) no evidence was adduced either before the CIT(A) or before us. Needless to mention the sale consideration mentioned in the registered sale deed is a conclusive evidence in respect of consideration passed and on account of sale of any immovable property. In the circumstances, the bald statement made by the assessee that cash deposits are made out of sale of property mentioned above cannot be accepted. The primary onus lies on the assessee to explain the source of cash deposits. In the present case, the assessee had miserably failed to explain source of cash deposits with plausible evidence. In the circumstances, we hold that the AO is justified in making an addition of Rs.27,18,000/-.

Reliance on the decision in *Parimisethi Seetharamamma Vs.CIT* (57 ITR 532) and 234 ITR 801 are not applicable in the facts of the present case as those decisions were rendered in the context of receipt of amount by an assessee whereas in the present case, it relates to unexplained cash deposits and the primary onus lies on the assessee to explain with plausible

evidence the source of such deposits. Failure to do so attracts the provisions of sec.69 which was right invoked by the AO in the present case. The ground raised by the assessee is dismissed.

6. The second ground relates to disallowance of loss under the head income from house property of Rs.1,50,000/-. The AO disallowed it in absence of any evidence produced. The CIT(A) also confirmed the same holding that the assessee had failed to produce details and evidence with regard to date of possession of the property, date of occupation of such house for self occupation etc. No such details were filed evidencing that the house was self-occupied and ready to occupy. This ground of appeal is also dismissed.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 30th June, 2016

sd/-
(ASHA VIJAYARAGHAVAN)
JUDICIAL MEMBER

Place : Bangalore
D a t e d : 30/06/2016

srinivasulu, sps

Copy to :

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

sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore