

IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU BENCH 'B', BENGALURU

BEFORE SHRI. A. K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI. LALIET KUMAR, JUDICIAL MEMBER

I.T.A No.329/Bang/2013)
(Assessment Year : 2008-09)

Shri. J. S. Ananth,
No.3, Sudarshan Nilaya, 5th Cross,
Cubbonpet, Bengaluru .. Appellant
PAN : ACHPA5995P

v.

Asst. Commissioner of Income-tax,
Central Circle -2(1), Bengaluru .. Respondent

Assessee by : Shri. H. N. Khincha, CA
Revenue by : Ms. Neera Malhotra, CIT - DR

Heard on : 22.08.2017
Pronounced on : 13.10.2017

ORDER

PER LALIET KUMAR, JUDICIAL MEMBER :

This appeal is filed by the assessee, against the order of the CIT (A), Mysuru, dt.13.12.2012, for the assessment year 2008-09. The assessee had filed the grounds of appeal in which he has raised several grounds. Thereafter the assessee has filed the additional grounds which is as under :

1.1 The learned Assessing officer had erred in adding a sum of Rs. 10,00,000/- on account of marriage expenses of Sri. Santosh, son of the appellant, on the ground that same is not separately shown in the return of income filed by the appellant, notwithstanding the fact that the amount was considered in the total declaration made by the group and the same was offered to tax in the returns filed by various firms.

1.2 The learned Commissioner of Income tax has erred in not making any adjudication on this sum of Rs. 10,00,000/-.

1.3 In any case, the addition as made amounts to double addition and same is to be deleted.

2.1 The learned Assessing officer has erred in adding a sum of Rs. 4,20,976/- on account of marriage expenses of son of the appellant as unexplained expenditure u/s 69C of the Act and the learned Commissioner of Income tax (Appeals has erred in confirming the same. The addition as made/sustained is without any basis and totally erroneous is to be deleted.

After filing the additional grounds, the assessee has not pressed the grounds raised earlier and therefore, we would only be adjudicating the additional grounds.

02. It is the case of the assessee that the AO has made an addition of Rs.10 lakhs on account of marriage expenses of the assessee's son, J. S. Santosh, on the ground that the same is not shown in the return of income filed by the appellant. A search was carried out u/s.132 of the Act, in the premises of the assessee along with others of Sudarshan Silks group on 11.10.2007, during the course of which various documents were found and seized. Notice u/s.153A was issued in response to which assessee filed the return. It was the case of the

assessee that the amount for which addition was made by the AO was part of the surrender made by Sudarshan Silks of which the assessee was a partner and duly accounted for the same in the surrender amount of Rs.3.04 crores. It was further contended that once the amount has been surrendered by the firm of the assessee, it cannot be added again in the hands of the individual assessee. Aggrieved by the addition made by the AO, assessee filed an appeal before the CIT (A), who confirmed the order of the AO. Further aggrieved the assessee is in appeal before us.

03. Before us, the Ld. AR made the submissions and pleaded that the addition is to be deleted.

04. On the other hand the Ld. DR vehemently argued that the authorities have given cogent reason for making the addition and therefore the appeal of the assessee is devoid of merit and is required to be dismissed.

05. We have heard the rival contentions and perused the material on record. The assessee has submitted that the amount of Rs.10 lakhs was included in the admitted amount of Rs.3.04 crores as per the letter dt.06.12.2007. There is no dispute on this aspect because as per the order of the CIT (A) rendered in the case of Sudarshan Silks, dt.26.09.2011 for AYs. 2004-05 to 1008-09, it was noted by the CIT (A), in para 5.91 that there is an amount declared of Rs.3,04,25,500/- including the amount of Rs.10 lakhs on account of unaccounted amounts spent on the marriage of Santosh. The discussion on this

issue by the CIT (A) as in para 5.9.3 of the order (supra) is reproduced below for the sake of ready reference :

5.9.3 The total amount offered for tax was to the extent of ₹ 3,04,25,500/-. The amounts considered in the hands of the partner is to the extent of ₹ 55,29,600/- [(c) + (e) as above]. ₹ 50,00,000/- has been offered in the hands of M/s Sudarshan Silk Palace and Sudarshan Jewellery for A.Y. 2007-08 . The balance ₹ 1,98,95,900/- should have been offered to tax in the hands of the appellant. Against this sum, the appellant has offered ₹ 2 crores and it is separately assessed by the A.O. in item no.(II)(b) in page no.26 of the Assessment Order. Accordingly, it is held that there was no need to add separately these two amounts of ₹ 1,12,95,000/- and ₹ 40,00,000/- as ₹ 50,00,000/- out of the above is offered out of the above two amounts for taxation in the hands of M/s Sudarshan Silk Palace and Sudarshan Jewellery for A.Y. 2007-08 and the balance is included in ₹ 2 crores which is offered in the appellant's hands and assessed by the A.O. separately. However, the income offered of ₹ 2 crores includes the above two sums of ₹ 1,12,95,000/- and ₹ 40,00,000/-, (out of ₹ 1,38,50,000/-, the appellant has offered ₹ 50,00,000/- in M/s Sudarshan Silk Palace and Sudarshan Jewellers for A.Y. 2007-08), separate additions under these heads amounted to adding the same amount twice and hence, these additions are deleted.

06. From the above extract from the order of the CIT (A), it is clear that the amount of Rs.55,29,600/- which is inclusive of the amount of Rs.10 lakhs is to be considered in the hands of the partner, i.e., the present assessee, as per the present assessment order in the hands of the assessee before us. It is seen that neither any amount has been declared as income on this account nor any separate addition was made by the AO on this account, apart from making an addition of Rs.10 lakhs in the hands of the assessee. In view of the above, we are of the considered opinion that no interference is called for in the order of the CIT (A) on this issue. We uphold the order of the CIT(A).

07. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 13th day of October, 2017.

Sd/-

(A. K. GARODIA)
ACCOUNTANT MEMBER

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

Bengaluru

Dated : 13.10.2017

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

SENIOR PRIVATE SECRETARY