

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, 'A' CHANDIGARH**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND  
Dr. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 614/CHD/2018**  
Assessment Year : 2008-09

Shri Dev Raj,  
Keshav Properties,  
Near Bus Stand, Baddi  
Himachal Pradesh

Vs. The ITO,  
Baddi, H.P.

PAN No. ADKPR1438E

(Appellant)

(Respondent)

Appellant by : Sh. Charitra Kumar, CA  
Respondent by : Smt.Chanderkanta,Sr.DR

Date of Hearing : 30.07.2018  
Date of Pronouncement : 04.09. 2018

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 26.02.2018 of the Commissioner of Income Tax(A), Palampur [hereinafter referred to as 'CIT(A)'].

2. The assessee in this appeal has taken the following grounds:-

1. *That having regard to facts and circumstances of the case. Ld. CIT (A) has law and on facts in confirming additions of Rs. 1,86,000/- on account of alleged rental income earned by the assessee.*

2. *That having regard to facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming additions of Rs. 5,36,250/- on account of alleged investment in immovable properties.*

3. *That having regard to facts and circumstances of the case,*

*Ld. CIT (A) has erred in law and on facts in not allowing the benefit of telescoping of incomes earned against Rs. 536.250/- investment in immovable properties as claimed by the assessee more-so in ignorance of facts of the case and submissions made.*

*4. That in any view of the matter and in any case the action of the Ld. CIT (A) in confirming the addition made is bad in law and against the facts and circumstances of the case,*

*5. That having regard to facts and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the order of Ld. Assessing Officer flouting the principles of natural justice by passing an order without considering the submissions made by the assessee, material on record, recording incorrect facts and without appreciating the complete facts and circumstances of the case.*

3. At the outset, Ld. Counsel for the assessee has submitted that as per the instructions of his client he does not press ground No.1 of the appeal. **Ground No.1**, is therefore, dismissed as not pressed.

4. **Ground No.2** : In ground No.2, the assessee has agitated the confirmation of addition of Rs. 5,36,250/- made by the Assessing officer on account of unexplained investment in immovable properties. The Assessing officer found that the assessee had invested in many immovable properties. On being asked to explain the source of investment of Rs. 5,36,260/- made by the assessee in the immovable properties in question, the assessee explained that the same was made out of the withdrawals made from the bank account of his sons Shri Rajesh Keshav and Sh. Jaswant Rai. However, the Assessing officer found that the aforesaid explanation of the assessee was not satisfactory as the sons of the assessee were also engaged separately in business of properly dealing, construction and plying of trucks etc. and further the assessments u/s 143(3) of the Act were

completed in their cases also wherein they could not even explain their investments and accordingly certain additions were made. He, therefore, rejected the above explanation given by the assessee.

5. In appeal before the Ld. CIT(A) confirmed the additions so made by the Assessing officer.

6. Before us, the Ld. AR of the assessee has reiterated the submissions as were made before the lower authorities. After going through the impugned orders of the lower authorities, we find that the lower authorities have rightly rejected the above explanation given by the assessee. The sons of the assessee have their separate business as discussed above and the aforesaid withdrawals from the bank account, under the circumstances cannot be attributed to the investments made by the assessee. In view of this ground No.2 of the appeal is dismissed.

**7. Ground No.3** – In ground No.3 the assessee has claimed telescopic benefit of the income earned / additions made to the income of the assessee in the preceding assessment year towards the unaccounted investment of Rs. 5,36,250/- for the year under consideration. The Ld. Counsel for the assessee has submitted that pursuant to survey action carried out at the premises of the assessee, the assessments were made for assessment years 2004-05 to 2008-09. That for the additions made into the income of the assessee in respect of preceding assessment years in the assessment proceedings pursuant to survey action at the premises of the assessee, the telescopic benefit of the same should be given to the assessee for

assessment year under consideration.

8. The Ld. DR however, on the other hand, has relied on the findings of the lower authorities.

9. We find force in the above contention of the Ld. Counsel for the assessee. Since the additions have been made in respect of preceding assessment year pursuant to survey action carried in the case of the assessee, hence, the additions in respect of unexplained income of the assessee made in the preceding assessment years are to be given telescopic benefit in respect of investments made by the assessee in the year under consideration. The Assessing officer is accordingly directed to give the telescopic benefit as observed above.

The appeal of the assessee, therefore, is treated as partly allowed.

Order pronounced in the Open Court on 04.09.2018

Sd/-

**(B.R.R KUMAR)**

**ACCOUNTANT MEMBER**

Dated : 04.09. 2018

Rkk

*Copy to:*

- *The Appellant*
- *The Respondent*
- *The CIT*
- *The CIT(A)*
- *The DR*

Sd/-

**(SANJAY GARG)**

**JUDICIAL MEMBER**