

IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH : BANGALORE

BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No.1880/Bang/2018

Assessment year : 2008-09

Sri Manickem Murugan, C-435, 1 <sup>st</sup> Floor, 1 <sup>st</sup> Stage, Behind Police Station, Peenya Industrial Area, Bengaluru-560 058.  PAN – ABJPM 9429 P.	Vs.	The Asst. Commissioner of Income-tax, Circle-6(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Narendra Sharma, Advocate
Revenue by	:	Shri Smarah Swan, JCIT (DR)

Date of hearing	:	22.04.2019
Date of Pronouncement	:	03.05.2019

**ORDER**

**PER B.R BASKARAN, ACCOUNTANT MEMBER :**

The appeal of the assessee is directed against the order dated 08-03-2018 passed by Ld CIT(A)-6, Bengaluru and it relates to the assessment year 2008-09. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the addition of Rs.24.50 lakhs made by the AO.

2. This is second round of proceeding. During the course of original assessment proceedings, the AO asked the assessee to

explain the sources for making cash deposits into the bank account to the tune of Rs.41.31 lakhs. The sources to the tune of Rs.24.50 lakhs was explained by the assessee as loan received from his daughter named Dr. Krithika Murugan, who was working in United Kingdom as medical surgeon. The assessee produced a confirmation letter obtained from his daughter. The AO did not accept the same and accordingly made addition u/s 68 of the Act. When the matter reached ITAT, the Tribunal, vide its order dated 30-09-2015 passed in ITA No.577/Bang/2014, restored the issue to the file of the AO to examine the claim of receipt of money from the daughter afresh.

3. Accordingly, the present assessment was passed by the AO. Before the assessing officer, both the assessee as well as his daughter, Ms.Krithika Murugan appeared in person and confirmed the receipt of money. However, both the persons stated that the money was given/received in pounds in the rage of 2000 pounds to 4,000/10000 pounds per visit. Since there was no proof for this claims and further since the assessee could not furnish any proof as to how these foreign currencies were deposited into the bank, the AO did not accept the claim of the assessee and accordingly he added the amount as unexplained cash credit. The Ld CIT(A) also confirmed the same for the reason that the assessee did not furnish any proof to show that the foreign currency was converted into cash through any foreign exchange authorised dealer.

4. We heard the parties and perused the record. First we prefer to extract below the observations made by the co-ordinate bench in the first round of proceedings:-

“08. We are of the opinion that the enquiry of the type that was warranted, considering the circumstances, was not made by the lower authorities. *May be it is true that the deposits were in cash. There is a distinct possibility that cash might have been handed by assessee’s daughter when she visited India to see her father.* In the circumstances of the case, we are of the opinion that the matter requires a fresh look by the AO. We remit the matter back to the AO for considering it afresh in accordance with law.”

We notice that the co-ordinate bench has already expressed the view that there is a distinct possibility that cash might have been handed by assessee’s daughter when she visited India to see her father. Hence the co-ordinate bench has accepted the possibility of cash dealing between the daughter and father in the peculiar facts of the present case. We further notice that both the assessee as well as her daughter Ms. Krithika Murugan has confirmed that the money was given in cash. While the assessee has stated that he used to receive money to the tune of 2000 pounds to 4000 pounds, his daughter has stated that she used to give in the range of 2000 pounds to 10000 pounds. There is no dispute that that the daughter of the assessee is a medical surgeon working in United Kingdom. Though the tax authorities are correct in observing that the assessee should have given evidences for conversion of foreign currency into Indian currency, yet, in the facts and circumstances

of the case, we are of the view some credence should be given to the admission made by both the assessee and her daughter. Accordingly we are of the view that the explanation of the assessee can be partially accepted, in which case the amount claimed to have received by the assessee requires to be estimated. Considering the fact that they meet in once in six months, the money claimed to have been given/received and taking into account two years period, we are of the view that explanation of the assessee may be accepted to the tune of Rs.10.00 lakhs. Accordingly we set aside the order passed by Ld CIT(A) on this issue and direct the AO to accept the explanation to the tune of Rs.10.00 lakhs and sustain the addition of balance amount of Rs.14.50 lakhs. We order accordingly.

5. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on **3<sup>rd</sup> May, 2019.**

**Sd/-**  
**(Pavan Kumar Gadale)**  
**Judicial Member**

**Sd/-**  
**(B.R Baskaran)**  
**Accountant Member**

Bangalore,  
Dated, 3rd May, 2019.

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.