

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

**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER**

**ITA No. 1660 (Bang) 2019  
(Assessment year : 2014 – 15)**

Shri Ramchand Gope,

Appellant

C/o S. Shivprakash & Co.,

#101, RV 15, 'E' Block, No. 52,

6<sup>th</sup> Main, Malleswaram,

Bengaluru – 560003.

**PAN. AFBPG6180M**

Vs

ITO Ward 1 (1),

Respondent

Bengaluru.

**Assessee by: Shri Pranav Krishna, Advocate**

**Revenue by : Shri Ganesh R. Ghale, Standing Counsel**

**Date of hearing : 25-09-2019**

**Date of pronouncement : 27-09-2019**

**ORDER**

**PER A. K. GARODIA, A.M.:**

This appeal is filed by the assessee and it is directed against the order of CIT (A) – 12, Bangalore dated 14.05.2019 for A. Y. 2014 – 15.

2. The assessee has raised as many as 9 grounds but the effective grievance is only one being disallowance of the assessee's claim that in respect of Flat No. 403, Prestige Tower, the rental income is nil u/s 23 (1) (c) because the flat was vacant for the whole year.

3. It was submitted by the learned AR of the assessee that the AO himself has noted on page 2 of the assessment order that this flat was let out in the preceding year i.e. A. Y. 2014 – 15 and in that year, the assessee declared rental income of this flat at Rs. 11,60,244/- and the AO adopted this amount only as notional rental income for the present year and after allowing standard

deduction @ 30% of this at Rs. 348,073/-, net income of Rs. 812,171/- was brought to tax and only is in dispute. He submitted that this issue is covered in favour of the assessee by the tribunal order rendered in the case of Dr. Paul Christadas Salins vs. ACIT as reported in TS – 6903 – ITAT – 2018 (Bangalore) – O. He submitted a copy of this tribunal order and pointed out that in that case also, relief was allowed by the tribunal under similar facts because in that case also, the property was not let out in the relevant year but was let out in the part of the preceding year. He also pointed out that in that case, the tribunal duly considered and distinguished the judgment of Hon'ble Punjab & Haryana High Court rendered in the case of Susham Singla vs. CIT as reported in 244 Taxman 302 against which, SLP of the assessee was dismissed by Hon'ble apex court. He pointed out that in the present case also, learned CIT (A) has followed this very judgment of Hon'ble Punjab & Haryana High Court rendered in the case of Susham Singla vs. CIT (Supra). He submitted that since this judgment of Hon'ble Punjab & Haryana High Court rendered in the case of Susham Singla vs. CIT (Supra) was duly considered and distinguished by the tribunal, this tribunal order should be followed and the addition made by the AO should be deleted. As against this, learned DR of the revenue supported the order of AO & CIT (A).

4. I have considered the rival submissions. I find that this is admitted position of fact that the property in question was although not actually let out in the present year but it was actually let out in the preceding year and the facts in the case of Dr. Paul Christadas Salins vs. ACIT (Supra) are identical because in that case also, the property in question was although not actually let out in the relevant year but it was actually let out in the preceding year. The judgment of Hon'ble Punjab & Haryana High Court rendered in the case of Susham Singla vs. CIT (Supra) was duly considered and distinguished by the tribunal in that case. I again examine the applicability of this judgment of Hon'ble Punjab &

Haryana High Court rendered in the case of Susham Singla vs. CIT (Supra) and find that in that case, this fact was admitted by the learned counsel of the assessee that out of four properties owned by the assessee, one is self occupied for which no addition is made by the AO and the remaining three properties being two at Delhi and one at Mumbai had not been let out. This is not a fact of that case that these three properties were let out in any preceding year and hence, I find that because of this difference in facts, this judgment is not applicable in the present case. Hence, I follow this tribunal order rendered in the case of Dr. Paul Christadas Salins vs. ACIT (Supra) and delete the addition made by the AO of Rs. 812,171/- in respect of Flat No. 403, Prestige Tower.

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

Order pronounced in the open court on the date mentioned on the caption page.

**Sd/-**  
**(A.K. GARODIA)**  
**ACCOUNTANT MEMBER**

Bangalore

D a t e d : 27.09.2019

/MS/

**Copy to :**

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

By order,

AR, ITAT, Bangalore