

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "A", BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER
AND**

SMT.BEENA PILLAI, JUDICIAL MEMBER

**ITA No.2560(Bang)/2017
(Assessment Year : 2014-15)**

Shri S.Jayaram,
No.10/1, Saptadri Layout,
4th Phase, Tubarahalli, 4th Phase,
Ramagondanahalli Post, Varthur Hobli,
Bangalore-560 066
PANNo.ADCPJ9047M

Appellant

Vs

The Deputy Commissioner of Income tax,
Central Circle-2(3),
C R Buildings, Queen's Road,
Bangalore

Respondent

**Appellant by : Shri Pranav Krishna, Advocate
Revenue by : Shri Manjeet Singh, Addl. CIT**

Date of hearing : 14-01-2020

Date of pronouncement :

ORDER

PER SHRI B.R.BASKARAN, ACCOUNTANT MEMBER :

The appeal filed by the assessee is directed against the order dated 26-09-2007 passed by the Id.CIT(A)-11, Bangalore and it relates to assessment year 2014-15.

2. The ground urged by the assessee relate to a single issue relating to disallowance of expenses to the tune of Rs.23,65,445/-.

3. We heard the parties and perused the record.

4. The assessee declared commission income on liaison work for land acquisition. The assessee declared a sum of Rs.1,26,56,944/- as commission received from M/s Sriram Properties. The AO noticed that the assessee offered an income of Rs.28.77 lakhs only out of the above said commission income. When examined the expenses claimed by the assessee against the above said commission income, the AO noticed that a sum of Rs.64.00 Lakhs was paid through cheque to Shri B.C.Reddeppa and B.C.Chenappa. The AO allowed the same. The balance amount of expenses of Rs.33.79 lakhs was claimed to be various expenses incurred by the assessee from time to time in cash towards land developments. The AO noticed that the assessee has not maintained books of accounts and further the assessee also did not furnish any voucher and confirmation with regard to the above said balance amount of expenditure of Rs.33.79 lakhs. Hence the AO took the view that the entire expenses could not be allowed. Accordingly, the AO restricted the deduction to 30% of the above said expenditure and disallowed 70% of the expenses amounting to Rs.23,65,445/-. The Id.CIT(A) also confirmed the same.

5. The Id. AR submitted that the net income declared by the assessee. out of commission income, works out to 22.74% which is reasonable. He submitted that the AO allowed expenses allowed by way of cheque amounting to Rs.64.00 lakhs. The AO has restricted the expenses claimed by the assessee only 30% of the claim which

is unjustified. Accordingly, the ld.AR submitted that the disallowance made by the AO and confirmed by the ld.CIT(A) are on the higher side.

6. On the contrary, the ld.DR submitted that the assessee has failed in its responsibility to prove the expenditure claimed, i.e., the assessee did not furnish vouchers and confirmations in support of expenditure claim. Hence the AO has disallowed 70% of the expenditure claimed and the same was also confirmed by Ld CIT(A). Accordingly, he submitted that the order passed by the ld.CIT(A) does not call for any interference.

7. It is an admitted position that the assessee has not furnished the details of expenses and also vouchers relating to the expenses claim of Rs.33,79,207/-. Further these expenses have been claimed to have been incurred by way of cash. There should not be any dispute that the responsibility to prove the expenditure claimed by the assessee is placed upon the assessee. When the expenditure is incurred by way of cash, the same is not susceptible to cross verification. Hence, the AO disallowed 70% of impugned expenditure claimed by the assessee. At the same time, it cannot be also presumed that the assessee would not have incurred expenditure at all in his liaison works. The assessee has stated that he has incurred certain expenses on land developments also, which was not disputed by the AO. Accordingly, we are of the view that the disallowance of 70% of the expenditure is on the higher side. Accordingly, on the conspectus of the matter, we are of the view that the disallowance may be restricted to 50% of the

expenditure incurred by the assessee by way of cash and the same will put this dispute at rest. Accordingly, we modify the order passed by the Id.CIT(A) on this issue and direct the AO to restrict the disallowance to 50% of impugned expenses, as against 70% made by him. We order accordingly.

8. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced

(BEENA PILLAI)
JUDICIAL MEMBER

Dated:

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

(B.R.BASKARAN)
ACCOUNTANT MEMBER

By Order

Asst.Registrar