

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI A. K. GARODIA, ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

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| ITA No.2819/Bang/2018 |
| Assessment year : 2016-17 |

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| Shri. Narayanan Sridhar, No.G-24, Fortunal Icon (B Block), Sahakara Nagar Main Road, F Block, Sahakara Nagar, Bengaluru – 560 092. PAN : AEGPS 0186 M | Vs. | The Income-Tax Officer, Ward – 5(3)(4), Bengaluru. |
| APPELLANT | | RESPONDENT |
| Assessee by | : | Shri. V. Srinivasan, Advocate |
| Revenue by | : | Smt. R. Premi, JCIT (DR)(ITAT), Bengaluru |
| Date of hearing | : | 29.06.2020 |
| Date of Pronouncement | : | 30.06.2020 |

ORDER

Per A. K. Garodia, AM:

This appeal is filed by the assessee and the same is directed against the order of learned CIT(A)- 5, Bengaluru, dated 11.07.2018 for Assessment Year 2016-17.

2. Although various grounds are raised by the assessee in this appeal but in the course of hearing, it was submitted by learned AR of the assessee that only ground No.2 is to be decided because ground No.1 is general and the remaining grounds are arguments only and therefore, no separate adjudication is required in respect of other grounds. Accordingly, we reproduce ground No.2 raised by the assessee before the Tribunal, which reads as under:

“2. The learned CIT[A] is not justified in sustaining the addition of Rs.30,00,000/- made in the hands of the appellant being the amount found by the Air Intelligence Unit, at Patna Airport in the possession of the appellant holding that the said cash found was unexplained cash of the appellant assessable u/s.69 of the Act under the facts and in the circumstances of the appellant's case.”

3. In the course of hearing, it was submitted by learned AR of the assessee that the only issue in dispute is regarding the amount of Rs.30,00,000/- cash which the assessee was carrying at the Patna Airport. He pointed out that Air Intelligence Unit at Patna Airport on 20.09.2015 conducted a search on the assessee and found that the assessee is carrying this amount of cash Rs.30,00,000/- with him and made a seizure of Rs.29.75 lakhs. He submitted that on pages 1 to 3 of the Paper Book is a copy of the statement of the assessee recorded by the search party on 20.09.2015 at Patna Airport and it was pointed out that in reply to question No.4 of the statement regarding source of cash, ownership of cash and purpose for cash handling, it was replied by the assessee that this cash belongs to L & T Limitd of which the assessee is an employee and it was also explained that this money was given by Mr. K. P. Girish Kumar, Dy. GM [Accounts] at Kolkata on 19.09.2015 for carrying it to Patna to make payment of wages for the project being run by L & T at Bihar Museum, Patna. He submitted that on page 16 of the Paper Book is the confirmation letter dated 22.12.2017 from the same company M/s. L & T Ltd., in which it has been confirmed by that company that the cash found from the assessee at Patna on 20.09.2015 pertained to that company i.e., M/s. L & T Ltd., which the assessee was carrying for the purpose of settling the labour payment. He pointed out that in spite of this confirmation letter from the Company M/s. L & T Ltd., which was submitted before the AO and CIT(A) both, these authorities have held that no evidence was provided by the assessee regarding this explanation of the cash found. At this juncture, the

Bench wanted to see the copy of cash book of M/s. L & T Ltd. To see the entry in cash book for the payment of cash by the company to this present assessee being the employee of that company and in reply, it was submitted by learned AR of the assessee that the copy of the cash book of M/s. L & T Ltd., was not made available to the lower authorities and its copy is not available with the AR also and he submitted that if the same is considered necessary, the matter may be restored back to the file of AO for a fresh decision and if it done, the assessee will try to produce the same by obtaining the same from the company and the AO may also be directed to write to the company for providing this copy of the cash book because after all, the assessee is only an employee of the said company and the said company may not provide the copy of cash book on the request of the assessee only and if the AO writes to the company, the company will make it available to the AO for verification. Learned DR of the Revenue supported the order of authorities below.

3. We have considered the rival submissions. We find that although as per the letter dated 22.12.2017 available on page 16 of the Paper Book, the said company M/s. L & T Ltd. has confirmed that the cash found with the present assessee at Patna Airport on 20.09.2015 was the cash pertaining to that company M/s. L & T Ltd. and it is also stated in the said letter that the cash deposited by the department was accounted in the books of that company M/s. L & T Ltd. and the cash pertains to M/s. L & T Ltd. PAN of that company is also provided in the said letter being AAACL 0140 P and the details of the AO of that company is also provided being ACIT, Ward – 2(2)(1), Mumbai. In our considered opinion, to examine the veracity of the assessee's claim, it is essential to examine the relevant portion of the cash book of that company and hence, we set aside the order of CIT(A) and restore the matter back to the file of AO for a fresh decision with the direction that the assessee should make

endeavour to produce the certified copy of the relevant page of the cash book of that company before the AO and the AO should also make efforts to obtain a certified copy of the relevant page of the cash book of that company M/s. L & T Ltd. directly from that company and decide this issue afresh after that. If it is found that on 19.09.2015 being the date on which cash was given by that company M/s L & T Ltd. to the present assessee as has been stated by the assessee in reply to question 4 of the statement recorded on 20.09.2015 (copy available on page 1 of the Paper Book), then the explanation regarding the source of cash should be accepted but if there is no such entry in the cash book of that company at the relevant point of time, then obviously the explanation of the assessee is not acceptable. The AO should pass necessary order as per above discussion after providing reasonable opportunity of being heard to the assessee.

4. In the result, assessee's appeal stands allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(PAVAN KUMAR GADALE)

Judicial Member

Bangalore,

Dated: 30th June, 2020.

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

By order

Assistant Registrar,
ITAT, Bangalore.