

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "B-SMC", HYDERABAD

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER

ITA Nos.1065/H/2018		
Assessment Year: 2007-08		
Sri Bommineni Sunil Kumar, Hanamkonda. PAN: AKPPB 4723 Q	Vs.	Income Tax Officer, Ward-2, Warangal.
(Appellant)		(Respondent)

ITA Nos.1066/H/2018		
Assessment Year: 2007-08		
Sri Bommineni Papi Reddy, Hanamkonda. PAN: ALKPB 7286 L	Vs.	Income Tax Officer, Ward-2, Warangal.
(Appellant)		(Respondent)
Assessee by:	Sri K. V. Chalamaiah	
Revenue by:	Sri Rajat Mitra, DR	
Date of hearing:	03/02/2020	
Date of pronouncement:	08/07/2020	

ORDER

Both these appeals are filed by the assessees against the orders of the Ld. CIT (A)-10, Hyderabad in appeal Nos. 0318 & 0319/CIT(A)-10/2015-16 both dated 20/03/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY 2007-08. Since substantial facts in both the appeals are identical, pertaining to related parties and with respect to the same

issue, they are taken up for hearing together for the sake of convenience and disposed off by this common order.

2. Both the parties have raised several identical grounds in their respective appeals however, the cruxes of the issues are that:-

- (i) *The Ld. CIT(A) has erred in sustaining the order of the Ld. AO who had made addition of Rs. 13,94,817/- and Rs. 11,11,100/- being the aggregate amount deposited in the individual bank accounts maintained by the assessees in ING Vysya Bank respectively for the relevant FY 2006-07 by treating it as unexplained investment U/s. 69 of the Act.*
- (ii) *The assessee Sri Bommineni Sunil Kumar in ITA No. 1065/H/2018 has raised another ground stating that the Ld. CIT (A) has erred in confirming the order of the Ld.AO who had made addition of Rs. 1,23,290/-towards unexplained expenditure invoking the provisions of section 69C of the Act.*

3. The brief facts of the case are that both the assessees are resident individuals. Sri Sunil Kuma Bommineni is an insurance agent employed with M/s.Bajaj Allianz Life Insurance Company Ltd earning commission whereas Mr. Papi Reddy Bommineni is earning income from pension and income from other sources, filed their returns of income for the AY 2007-08 on 10/09/2007 and 03/08/2007 declaring net income of Rs. 3,17,168/- and Rs. 1,17,549/- which was initially processed U/s. 143(1) of the Act on 10/04/2008 and 11/04/2008 respectively. Thereafter, both the cases were taken up for scrutiny and finally assessments were completed U/s. 143(3) of the Act on 24/12/2009 and 17/12/2009 wherein the Ld AO made addition of Rs.

13,94,817/- and Rs. 11,11,100/- under the head unexplained investment invoking the provisions of section 69 of the Act being the amount deposited by the assesseees in their individual bank accounts respectively towards which the source was not explained. Further, the Ld. AO made addition in the case of Sri Sunil Kumar Bommineni Rs. 1,23,290/- invoking the provisions of section 69C of the Act as the unexplained expenditure incurred by the assessee and further made addition of Rs. 9749/- being the interest income received from ICICI and ING Vysya Bank which was not disclosed in the return of income. Both the assesseees carried the matter before the Ld. CIT (A) with respect to the addition made U/s. 69 and 69C of the Act. On appeal, the Ld. CIT (A) confirmed the order of the Ld. AO by agreeing with his views, aggrieved by which both the assesseees are now in appeal before us.

4. **Ground No.1: Addition towards Unexplained investment U/s. 69 of the Act in the case of both the assesseees:-**

5. During the course of scrutiny assessment proceedings, the Ld. AO observed in both the cases of the assesseees that they had deposited cash in their individual bank accounts maintained with ING Vysya Bank aggregating to Rs. 13,79,000/- and Rs. 13,83,100/- respectively during the relevant FY. It was further observed that both the assesseees have deposited cheques in their bank accounts Rs. 1,22,817/- and Rs.

85,000/- respectively. It was also revealed that both the assesseees had not disclosed the aforesaid bank deposits in the return of income. Since both the assesseees could not explain the source for the bank deposits, the Ld. AO computed peak deposits in the bank account at Rs. 13,94,817/- in the case of Sri Sunil Kumar Bommineni and Rs. 11,11,100/- in the case of Sri Papi Reddy Bommineni and added the same to their income as unexplained income U/s. 69 of the Act. When the matter cropped up before the Ld. CIT (A) Sri Papi Reddy Bommineni furnished an affidavit dated 09/02/2016 stating that by virtue of partition deed dated 5/4/1968 and by way of further acquisition they were in possession of vast extent of agricultural land. It was further stated that the assesseees had entered into a sale agreement on Rs. 100/- stamp paper and thereby received Rs. 27 lakhs without handing over possession of the property. It was further stated that since the land was purchased in the name of Sri Sunil Kumar Bommineni vide purchase deed dated 07/11/2001 the above mentioned sale agreement was executed by him. It was further explained that the sale proceeds were deposited in the bank accounts of both the assesseees in piecemeal. It was further explained that Sri Sunil Kumar Bommineni executed an agreement of sale-cum-General Power of Attorney in favour of the purchaser on 7/12/2006 and the same was registered before the Sub-registrar, Gagwal vide Doc No.14430/06. The assesseees further clarified that the final payment of Rs. 18 lakhs was received and

deposited equally in the bank accounts of both the assesseees ING Vysya Bank accounts on 8/12/2007. However, both the assesseees failed to produce the agreement entered between them and the vendor on 7/11/2001 to explain the source for the receipt of Rs.27 lakhs. During the course of Remand proceedings it was further observed by the Ld.AO that in the sale document the sale consideration was mentioned as Rs. 6 lakhs only. Therefore, the Ld. AO had opined that at the most relief can be granted to the assesseees only for Rs. 3 lakh each. However after considering the remand report the Ld. CIT (A) refused to grant any relief to both assesseees by observing as under:-

*“11. After careful consideration of the material available on record, it is seen that here is a case where the assessee filed return of income, after due verification, and concealed particulars of a bank account into which the relevant cash deposits were made. In the course of the scrutiny assessment proceedings and on account of enquiries caused by the AO, the assessee was caught for failure to disclose the bank account. Further, the assessee failed to offer any explanation in respect of the nature and source of the deposits in spite of repeated notices issued and opportunities given. This resulted in addition of Rs. 11,11,100/- U/s. 69 towards unexplained investments.*

*11.1. In the course of the appeal proceedings, the appellant came forward with an explanation based on sale of agricultural lands. Basically, the appellant states that there was a sale agreement dated 15/3/2006, in respect of sale of agricultural lands, for a consideration of Rs. 27,00,000/-. This transaction got concluded with the sale deed registered on 7/12/2006, for a consideration of Rs. 6 lakhs. No explanation has been offered by the appellant in respect of the action of registering the property at a sale towards sale consideration. While the sale deed is registered with government authority, the sale agreement remains in private domain. Whatever are the reasons in respect of the adoption of two different standards, for two different purposes, with two different values, they are best known to the appellant. Also, in the absence of proof of a cash receipt, in accordance with the sale agreement, and lack of witness, the sale agreement does not have any value. Basically, there is no authenticity about the sale agreement.*

11.2. *Another aspect is about the sum of Rs. 6 lakhs which is mentioned in the registered sale deed. The fact of existence of bank account was hidden when return was filed. In the assessment proceedings, nothing prevented the appellant from explaining the source of deposit to the extent of Rs. 6 lakhs, which is as per the registered sale deed, if this amount was actually deposited in the bank account.*

11.3. *It is only later that the assessee, as an afterthought, made an attempt to explain the sources for the cash deposits by using the sale of agricultural lands in the past. While it is clear that the sale agreement is not authentic, the benefit of explaining the source of cash deposits with reference to the sale consideration, forming part of the registered sale deed, can also not be given to the appellant considering the actions, on the part of the appellant, from the stage of filing of the return to the first appeal proceedings including the unreliable nature of explanations given and documents furnished.”*

5.1. Thereafter, the Ld. CIT (A) dismissed both the appeals of the assessees.

6. Before us, the Ld. AR furnished several documents running 1 to 28 pages which were furnished before the Ld AO and the Ld. CIT(A) at the time of proceedings before them. The most relevant documents amongst the same are copy of the partition deed dated 5/4/1968 between Sri Papireddy Bommineni and his brothers whereby he had acquired agricultural land at Raghunathapalli Village (paper book page no. 10 and 10A), copy of the purchase deed dated 7/11/2001 for purchase of 3 Acres of Agricultural Land in the name of Sri Sunil Kumar Bommineni (paper book page no.11 to 14B), copy of the unregistered sale deed entered in Rs. 100/- stamp paper dated 15/3/2006 for the sale of 3 Acre agricultural Land by Sri Sunil Kumar Bommineni (Paper book page no. 15 & 16), agreement of sale-cum-GPA executed by Sri Sunil Kumar Bommineni dated 7/12/2006 registered as Doc No. 14430

for sale of the 3 Acres of land for Rs. 6 lakhs (paper book page no. 17 to 23). On perusing the above documents, it is apparent that both the assesseees were related parties and had sold their agricultural land. They had also explained that they had received on-money on the transaction. Thus, the entire sale of the property was for a sale consideration of Rs. 27 lakhs. From the above documents it is also apparent that the particulars such as names and address of the buyers of the property are available. In real estate transactions it is quite common for the buyers to disclose the value of the property at a lesser rate in order to avoid registration charges especially in rural areas. When all the details with respect to the transactions are available before the Revenue they ought to have examined all the relevant parties before arriving at any conclusion, however, the Ld. Revenue Authorities have even failed to examine the buyers of the properties in order to explore the veracity of the claim of the assesseees. Further it is apparent that Sri Sunil Kumar Bommineni has meagre sources of income from his profession as insurance commission agent. Sri Papireddy Bommineni is also earning only a small amount of pension income. Moreover there are no findings by the Ld. Revenue Authorities that both the assesseees are engaged in any other activity earning income other than agricultural income. In this situation, it is a great injustice inflicted on both the assesseees by the Ld. Revenue Authorities for making additions without properly examining the veracity of the claim of the assesseees when sufficient

documents and explanation were furnished before them. Considering the facts and circumstances of the case, I am of the view that the amount deposited by both the assesses are from the sale proceeds of the agricultural owned by them. Hence the addition made by the Ld. AO which was further sustained by the Ld. CIT (A) on this count is not justifiable. For the above stated reasons, I hereby set aside the order of the Ld. CIT (A) and direct the Ld. AO to delete the addition of Rs. 13,94,817/- and Rs. 11,11,100/- made in the hands of the assessee's Sri Sunil Kumar Bommineni and Sri Papi reddy Bommineni respectively towards unexplained investment invoking the provisions of section 69 of the Act. Accordingly, this ground raised by both the assesseees is allowed in their favour.

7. **Ground No.2: Addition towards unexplained expenditure U/s. 69C of the Act in the case Sri Sunil Kumar Bommineni:**

8. During the course of scrutiny assessment proceedings, it was observed by the ld. AO that the assessee had earned gross commission from Bajaj Allianz Life Insurance Company Ltd amounting to Rs. 4,64,458/- which was credited to his bank account. It was further observed that the assessee had claimed expenditure of Rs. 1,45,890/- towards bonus, telephone conveyance expenses and bad debts. On further perusal of the accounts it was revealed that with respect to the

expenditure claimed for Rs. 1,23,290/- there were no sufficient withdrawals. Therefore, the Ld. AO treated the amount of 1,23,290/- as the unexplained expenditure and added to the income of the assessee invoking the provisions of section 69C of the Act. Since no proper explanation was stated before the Ld. CIT (A) he confirmed the order of the Ld. AO. on examining the facts of the case, I am of the considered view that the assessee has enough resources from his accumulated funds to make payment towards the expenditure as he is earning income from his profession as insurance commission agent for quite a period of time. Further, the assessee's family has also resources for earning agricultural income. Hence, I am of the considered view that the addition made by the Ld. AO which is further sustained by the Ld. CIT (A) on this regard is not warranted. Accordingly, I hereby set aside the order of the Ld. CIT (A) and direct the Ld. AO to delete the addition made in the hands of the assessee for Rs. 1,23,290/- invoking the provisions of section 69C of the Act as unexplained expenditure. Accordingly, this ground raised by the assessee is also allowed in his favour.

09. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing the appeal, which is though against the usual norms, I find it appropriate, taking into consideration of the extra-ordinary situation in the light of the lock-down due to Covid-19 pandemic. While doing so, I have relied in the decision of Mumbai Bench

of the Tribunal in the case of DCIT vs. JSW Ltd. In ITA No.6264/M/2018 and 6103/M/2018 for AY 2013-14 order dated 14th May 2020.

10. In the result, both the appeals of the assesseees are allowed.

Pronounced in the open Court on 08<sup>th</sup> July, 2020.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated:08<sup>th</sup> July, 2020.

OKK

Copy to:-

- 1) Sri Bommeneni Sunil Kumar, 2-5-58, Water Tank, Hanamkonda, Warangal – 506 001. (ii) Sri Bommineni Papi Reddy, 2-5-58, Water Tank, Hanamkonda, Warangal – 506 001.
- 2) Income Tax Officer, Ward-2, Warangal.
- 3) The CIT(A)-10, Hyderabad.
- 4) The Pr. CIT-3, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File