

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

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.637/Bang/2020 : Asst.Year 2006-2007
ITA No.638/Bang/2020 : Asst.Year 2007-2008
ITA No.639/Bang/2020 : Asst.Year 2008-2009
ITA No.640/Bang/2020 : Asst.Year 2009-2010

The Income Tax Officer Ward 1(2)(1) Bangalore.	v.	M/s.Lalitha Developers No.44/45, Tapovan Chambers LEO Complex, Residence Road Bangalore – 560 001. PAN : AACFL0493L.
(Appellant)		(Respondent)

CO No.13/Bang/2020 : Asst.Year 2006-2007
CO No.14/Bang/2020 : Asst.Year 2007-2008
CO No.15/Bang/2020 : Asst.Year 2008-2009
CO No.16/Bang/2020 : Asst.Year 2009-2010

M/s.Lalitha Developers No.44/45, Tapovan Chambers LEO Complex, Residence Road Bangalore – 560 001.	v.	The Income Tax Officer Ward 1(2)(1) Bangalore.
(Cross Objector)		(Respondent)

Revenue by : Sri.Sanjay Kumar, CIT-DR
Assessee by : Sri.Smt.Suman Lunkar, CA

Date of Hearing : 23.10.2020	Date of Pronouncement : 02.11.2020
-------------------------------------	---

ORDER

Per George George K, JM :

These appeals at the instance of the Revenue and the Cross Objections by the assessee are directed against four separate orders of the CIT(A), all dated 03.02.2020. The relevant assessment years are 2006-2007 to 2009-2010.

2. Common issues are raised in these appeals and cross objections. Hence, they were heard together and are being disposed of by this consolidate order.

3. Identical grounds are raised in these appeals filed by the Revenue. The grounds raised read as follow:-

“1. The order of the learned CIT(Appeals), in so far as it is prejudicial to the interest of revenue, is opposed to law and the facts and circumstances of the case.

2. The ld.CIT(A) erred in sustaining the addition made by the AO holding that since in the case of partner Shri. Rajnit Kumar Media the additions have been made on substantive basis the addition made in the case of assessee firm, should be treated as protective in nature.

3. For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the ld.CIT(A) be reversed and that of the Assessing Officer be restored.

4. The appellant craves leave to add, to alter, to amend or delete any of the grounds that may be urged at the time of hearing of appeal.”

3.1 In the cross objection filed by the assessee, two issues are raised for assessment years 2006-2007 to 2008-2009, viz., (i) reassessment initiated are invalid; and (ii) the protective additions made ought to be deleted.

3.2 For the assessment year 2009-2010, apart from the above two issues, the assessee has also raised an additional issue, viz., CIT(A) has erred in not adjudicating the issue of addition made on account of undisclosed compensation amounting to Rs.50 lakh.

4. The brief facts of the case are as follow:

There was a search and seizure operation in the business premises of Dayanand Pai group of cases on 12.04.2011. Subsequent to the search, reassessment proceedings were initiated in the hands of the assessee-firm for assessment years 2006-2007 to 2009-2010. According to the Assessing Officer, the assessee had advanced a sum of Rs.2 crore to the Dayanand Pai group and for such amounts advanced, the assessee was on receipt of interest. It was further stated by the Assessing Officer that the above advance of Rs.2 crore was not disclosed to the Department as well as the interest thereon. Accordingly, the assessments were completed for the assessment year 2006-2007 bringing to tax as undisclosed income for the principal amount of Rs.2 crore and interest thereon. For the subsequent years, the additions were made for the interest income.

5. Aggrieved by the assessment orders for assessment years 2006-2007 to 2009-2010, the assessee preferred appeals before the first appellate authority. Before the first appellate authority, the assessee challenged the reopening of assessments as well as the issue on merits. With regard to the assessee's challenge on reopening of assessments, the CIT(A) decided the matter against the assessee. On merits, the CIT(A) held in the hands of the partner of the assessee-firm (Sri.Ranjit Kedia) identical additions viz., unaccounted principal and unaccounted interest were made on substantive basis.

Consequently, the CIT(A) held the additions made in these assessments are to be treated as protective.

6. Aggrieved by the orders of the CIT(A) for the assessment years 2006-2007 to 2009-2010, the Revenue has filed these appeals and the assessee has filed these cross objections. The learned Departmental Representative submitted that in the case of Sri.Ranjit Kedia, the partner of the assessee-firm, in whose case substantive additions / assessments were completed, the appeals are pending before the CIT(A). It was submitted by the learned DR that the protective assessments in these cases need to be taken up together with the substantive assessment and requested for restoring these appeals to the CIT(A).

7. The learned AR also agreed that the matter may be restored to the CIT(A) so that decision can be taken together, both in the case of substantive assessment as well as protective assessments. It was further submitted by the learned AR that the issue of validity of reopening of assessments may be left open.

8. We have heard the rival submissions and perused the material on record. It is admitted by both the sides that the substantive assessment in the case Sri.Ranjit Kedia, the partner of the assessee-firm, is pending before the CIT(A). When substantive assessment is pending before the CIT(A), necessarily, the protective assessments in these cases need to be considered together. The grounds raised by the assessee

with regard to the reopening of assessment is left open and the appeals and the cross objections are restored to the files of the CIT(A). The CIT(A) shall pass orders in accordance with law after a decision is taken in the case of Sri.Ranjit Kedia, the partner of the assessee-firm. It is ordered accordingly.

9. In the result, the appeals filed by the Revenue and the cross objections filed by the assessee are allowed for statistical purposes.

Order pronounced on this 2nd day of November, 2020.

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 2nd November, 2020.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-I, Bengaluru.
4. The Pr.CIT-1, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore