

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

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER AND
Ms. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA Nos.137 & 138/Bang/2022 & ITA Nos.2305 & 2306/Bang/2019
Assessment years : 2014-15 & 2015-16

Shri B.V. Ravikumar PAN: ADHPR 5332C & Smt. K.R. Geetha PAN: AENPG 4354C No.281, 17 th Cross, Sadavashivangar, Bengaluru – 560 080	Vs.	The Assistant Commissioner of Income Tax, Circle 6[3][1], Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri V. Chandrashekar, Advocate
Respondent by	:	Smt. Priyadarshini Besaganni, Addl.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	03.11.2022
Date of Pronouncement	:	28.11.2022

ORDER

Per Bench

These appeals by two assesseees are against the orders of the Commissioner of income tax (Appeals), Bangalore-6, Bangalore dated 26.8.2019 & 25.11.2019 respectively for the assessment years 2014-15 and 2015-16. All these appeals involve common facts and common grounds of appeal are raised. They were heard together and disposed of by this common order for the sake of convenience and brevity.

ITA Nos.137 & 138/Bang/2022

2. The assessee, Shri B.R. Ravikumar, is an individual deriving income predominantly from let out properties returned under the head “income from house property” apart from income from “other sources”. The assessee filed the return of income for the assessment year 2014-15 on 01.06.2015 declaring the total income of Rs.1,33,60,730. For assessment year 2015-16, the return was filed on 29.02.2016 declaring a total income of Rs.1,70,33,230. Subsequently, the assessee’s case was taken up for scrutiny and the assessment was completed u/s. 143(3) accepting the returned income.

3. On 21.9.2016, a survey u/s. 153A was conducted by the Officers of Range 3(2), Bangalore in the case of one, Shri V. Bore Gowda. The AO of the assessee received information that the transactions in bank accounts of Shri Bore Gowda in Janatha Seva Co-op. Bank actually belonged to the assessee and his wife, Smt. K.R. Geetha, with whom Shri V. Bore Gowda was employed with. The cash deposits in the account of Shri Bore Gowda was Rs.3,34,97,850 for AY 2014-15 and Rs.1,36,04,350 for AY 2015-16 respectively. In the light of this information, the AO issued a notice u/s. 148 dated 28.3.2017 for AY 2014-15.

4. Before the AO, the assessee accepted that the account in the name of Shri Bore Gowda actually belongs to the assessee and his wife. The assessee further submitted that: -

- a) On perusal of my assessment records it can be seen that I have borrowed huge funds from banks and financial institutions for the purpose of putting up properties on which we derive rentals also;
- b) For the purposes of ongoing construction and renovation thereof in respect of our properties thereon, Sri. V. Boregowda was deputized

by us to meet up the construction cost/improvement thereof in our absence from town and that he was also looking after the day to day activities of our business operations.

- c) Further for our purposes of repaying the huge loans so availed which entailed the repayment of such loans in EMI as per the terms and conditions set forth by the banks and financial institutions. Further, to keep up our track record clean, we had also instructed Sri. V Boregowda to monitor and follow-up with such repayments to enhance our goodwill and reputation with banks and institutions.
- d) As I was away from town along with my wife for a considerable time during the previous year relevant to assessment year, we had decided to streamline the smooth flow of activity of construction and to certain extent repayment of EMI loans without any let or hindrance and for this purpose Sri. V Boregowda was asked to open bank accounts many years back to meet such contingencies.
- e) Thus the bank account of Sri. V Boregowda, in Janatha Seva Co-operative bank in account S.B A/c No.2915 and the bank account in Axis bank in account no.911010004775375 were opened some years back, which were wholly and exclusively on my behalf of me and my wife Smt. K. R Geetha purely for the purposes of meeting business commitment of ours and to monitor the same.
- f) This fact was also brought to the light of the assessing officer in my scrutiny assessments so completed since the assessment years 2010-11 onwards a fact which is borne out of my bank account so furnished to the assessing officer.
- e) Lastly on perusal of the bank statement of Sri. Bore Gowda, wherein there are self-withdrawals from his bank accounts, which were expressly drawn at our instructions to meet the business commitments in our absence. The cash so drawn by Sri. V. Bore Gowda after meeting such business expenses, the surplus cash was deposited back by Sri.V.Boregowda in his bank account or to ours as the case may be and that as we had instructed not to hold back such cash for a longer period and accordingly such available cash was re-deposited into such banks.

5. The AO did not accept the submissions of the assessee and stated that the cash deposited is nothing but unaccounted money and brought the same to tax u/s. 69A of the Act. Accordingly, the sum of Rs.2,89,27,884 for AY 2014-15 and an amount of Rs.85,09,088 for AY 2015-16 is brought to tax in the hands of the assessee towards the

deposits made in the bank account in the name of Shri Bore Gowda. The AO also made similar addition towards deposits made into the bank account in assessee's own name to the tune of Rs.1,67,72,230 for AY 2014-15 and Rs.1,93,33,000 for AY 2015-16.

6. Aggrieved, the assessee filed an appeal before the CIT(A) reiterating the submissions made before the AO with regard to the merits of the issue. The assessee also raised the legal contention that the reassessment proceedings are bad in law since the assessee's case was reopened merely on a change of opinion since the bank account details of Shri Bore Gowda was already disclosed at the time of original assessment and also that the assessee was not issued with notice u/s. 143(2). The CIT(A) sent the assessee's submissions to the AO and called for a remand report. On the legal issue, the AO submitted that the notices were correctly issued and that this is not raised before the assessment proceedings. The CIT(A) upheld the validity of the reopening by stating that it was only after the survey u/s.133A that it came to the light that the bank accounts of Shri Bore Gowda were in fact operated by him at the behest of the assessee and her husband and therefore cannot be held that the reopening of the assessment was based on mere change of opinion.

7. The assessee also made submissions before the CIT(A) elaborating the source of the cash deposits. The assessee submitted that the assessee has taken loan to the tune of Rs.30.13 crores in his own name and a sum of R.7.07 crores in his wife's name. The assessee also submitted before the CIT(A) that there was significant price fluctuation in the building materials due to which the assessee has instructed Shri Bore Gowda to hold cash so that when prices dip, materials could be

immediately bought and also to give advances to vendors. When the vendors short supply and refund the money the cash was re-deposited into the bank account. The assessee further submitted that certain money was withdrawn towards purchase of agricultural land and when the transaction did not go through the cash was re-deposited. In the remand report on merits, the AO submitted that though the balance in the bank account of Shri Bore Gowda is not correctly reflected, the same not shown under the head 'Cash at Bank' but under 'Advances and deposits'. For this reason the AO stated that the claim of the assessee that Shri Bore Gowda's bank account is reflected in assessee's books is false and misleading. The AO further held that the assessment was framed after taking into account the Bank borrowings of the assessee and thus confirmed that there is no change to the additions made earlier.

8. The CIT(A) upheld the order of the AO with regard to the legal issued contended by the assessee. On merits, the CIT(A) considered the remand report from the AO and held as under:-

“8.4 Regarding the merits of the additions made, the crux of the appellant's arguments is that the cash deposits were made out of earlier withdrawals. In the appellant's written submissions, various reasons for cash withdrawals were given which are discussed in para 4.2 supra. However, no specific details were given as to the purpose of a particular withdrawal or the quantum of utilization nor was any correspondence drawn between the withdrawals and the subsequent deposits. A case in point being the claim that cash was withdrawn for purchase of agricultural lands and subsequently redeposited when the title was found to be faulty. No details of the parties involved, the lands sought to be purchased and the amounts involved have been filed. Further, the reason for cash withdrawals out of the loans sanctioned is stated to be for construction purposes. However, with the exception of the residential property standing in the name of the appellant's wife, the other properties in question were already let

out and the appellant and his wife were deriving rental income from them_ The farm-house at Nelamangala was in the name of the appellant's HUF, and not held in his individual capacity, as submitted during appellate proceedings. The appellant has also not given details of the utilization of the withdrawals and the reason for redeposit of the cash. The percentage of cash stated to be redeposited out of cash withdrawn earlier is too high to explain the stated purpose of the withdrawals. For instance, from the cash flow statement of Shri Bore Gowda, it is seen that between the period 15/04/ 2013 and 25/05/2013, approximately Rs.1.60 crores has been withdrawn from JSCB. Between 25/05/2013 and 30/05/2013, an amount of approximately 1.44 crores was deposited in cash in JSCB. Likewise, in the month of November 2013 there are cash deposits to the tune of almost 60 lakhs, which are preceded by withdrawals of almost the same amount between 21/10/2013 and 09/11/2013. In March 2013, the cash withdrawals were only Rs.4.35 lakhs whereas the deposits are to the tune of Rs. 38 lakhs. In October 2014, the withdrawals are around Rs.15 lakhs and within the same month Rs.14 lakhs has been deposited in cash. On 26/11/2014 there was a cash withdrawal of Rs.10 lakhs followed by a deposit of Rs.9 lakhs on 28/11/2014. The reasons for such huge withdrawals has not been explained 'with any concrete evidence. The appellant has sought to demonstrate through the cash flow statement that funds were available for depositing cash but has not given any details of why the cash was withdrawn and how it was utilized. Withdrawing cash only to redeposit almost the entire amount goes against the norms of human probability even if the cash balance is adequate to cover the subsequent deposits.

From the above discussion, it is clear that the appellant has not given any proper explanation for the source of the cash deposits and has resorted to bland averments regarding the utilization of the cash withdrawn. The appellant has placed reliance on two decisions of the Hon'ble Karnataka High Court in the case of Smt. Padmavathi vs ITO in ITA No.414 of 2009 and in the case of Vanitha G. vs ITO in ITA No. 636 of 2013 on the grounds that the facts of those two cases are identical with his. However, a reading of the said decisions shows that they have been rendered on different sets of facts. In the case of Smt. Padmavathi, the assessee was in receipt of agricultural income which the Court held to be a reasonable source of cash deposits claimed to be out of earlier withdrawals. In the case of Vanitha G., the issue was of the long gap i.e. a year between the withdrawal and redeposit. The Court remanded the matter back to the AO for consideration

of all entries in the books of accounts and bank passbook. The facts of the appellant's case differ from those of the aforementioned cases. The appellant's case is similar to the facts of a recent decision in the case of Dinesh Kumar Jain vs PCIT, New Delhi 407 ITI 65, wherein the Hon'ble Delhi High Court held that where the assessee claimed that he withdrew certain amount from his bank account for construction of a building and surplus money, when not required, was redeposited, in same bank account, since assessee failed to produce any bills/vouchers relating to construction, and justify substantial cash Withdrawals for meeting construction cost and re-deposits when money was not required, additions under section 68 in respect of amount redeposited was justified. In view of the foregoing discussion, the grounds of appeal raised by the appellant fail.”

Aggrieved, the assessee is in appeal before the Tribunal.

9. The assessee raised the following grounds of appeal:-

“1. The order passed by the learned Commissioner of Income-tax [Appeals] -6, Bengaluru, dated 25/11/2019, in so far as it is against the Appellant, is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the appellant's case.

2. The order of re-assessment passed under section 148 of the Act is bad in law and void-ab-initio as the mandatory conditions to invoke the provision of section 147 did not exist and thereby the very notice issued under section 148 is also bad in law, on the facts and circumstances of the appellant's case.

3.1. The notice issued under section 148 of the Act is very vague and without any application of mind since the learned assessing officer has not specified as regard to which limb he has issued the notice whether to assessee or reassess the income of the appellant and consequently the subsequent proceedings which has been concluded on an invalid notice becomes bad in law, on the facts and circumstances of the appellant's case.

3.2 The reasons recorded by the learned assessing officer utmost may be considered as reason to suspect and under no stretch of imagination the same does not constitute reason to believe which is a basic ingredient for a valid assumption for re-assessment, on the facts and circumstances of the appellant's case.

3.3. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the learned assessing officer has not independently applied his mind to the facts of the case in re-opening the case of the appellant, merely based on the information obtained from the officer of Range - 3 [2], the case has been re-opened which amounts to borrowed satisfaction which is impermissible and unsustainable in the eyes of law and thus the order of assessment passed under section 148 of the Act requires to be cancelled, on the facts and circumstances of the appellant's case.

3.4. The learned Assessing Officer has not followed proper procedure before and after issuance of a notice under section 148 of the Act, be that may be sanction under section 151 of the Act and consequently, subsequent proceedings on an invalid procedure adopted by the learned assessing officer becomes void-ab-initio and does not have any legs to stand the test of law which renders the re-assessment order unsustainable in law, on the facts and circumstances of the appellant's case.

3.5. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the re-opening of an already concluded assessment is based on a change of opinion not based on any fresh material and consequently the entire reassessment is bad in law and requires to be cancelled, on the facts and circumstances of the appellant's case.

3.6. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the statutory notice issued by the learned assessing officer under section 143 [2] of the Act is not as per the recommended format and consequently the non-issuance of a proper notice under section 143 [2] of the Act, vitiates the entire proceedings and the order of reassessment passed requires to be cancelled, on the facts and circumstances of the appellant's case.

4. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the learned assessing officer had not issued any proposition notice / questionnaire before concluding the assessment which has resulted in huge addition, is against the principles of natural justice and even on this count the impugned order of assessment ought to have been cancelled on the facts and circumstances of the appellant's case.

5. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the impugned order of assessment passed by the learned assessing officer is an unsigned order i.e. the learned

assessing officer has not signed the order of assessment passed by him and consequently it is not an order by itself and consequently the learned Commissioner of Income-tax [Appeals] ought to have cancelled the order of assessment passed by the learned assessing officer, on the facts and circumstances of the case.

6. Without prejudice to the above legal grounds, the Appellant denies himself liable to be assessed on an income amounting to Rs. 5,90,60,840/- as determined by the learned assessing officer and confirmed by the learned Commissioner of Income-tax [Appeals], against the income reported by the appellant of Rs. 1,33,60,730/- on the facts and circumstances of the appellant's case.

7. The learned Commissioner of Income-tax [Appeals] is not justified in confirming the addition of Rs. 4,57,00,114/- made by the learned assessing officer as unexplained money invoking the provisions of section 69A of the Act on the facts and circumstances of the appellant's case.

8. The learned Commissioner of Income-tax [Appeals] failed to properly appreciate that the deposits into the bank account amounting to Rs. 4,57,00,114/- [Rs. 2,89,27,884/- and Rs. 1,67,72,230/-] are out of the previous withdrawals which were re-deposited into the bank account and the entire deposits were out of explainable sources and consequently the addition made on account of unexplained money under section 69A of the Act requires to be deleted on the facts and circumstances of the appellant's case.

9. The learned Commissioner of Income-tax [Appeals] is not justified in not giving the benefit of telescoping effect with the withdrawals as the source for the deposits made into the bank account on the facts and circumstances of the appellant's case.

10. Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies himself liable to be charged to interest under section 234 A, 234 B Et 234 C of the Income Tax Act on the facts and circumstances of the appellant's case. The appellant contends that the levy of interest under section 234 A, 234 B and 234 C of the Act is also bad in law as the period, rate, quantum and method of calculation adopted by the learned assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.

11. The Appellant craves leave to add, alter, amend, delete or substitute any of the grounds urged above.

12. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed and appropriate relief may be granted in the interest of justice and equity.”

10. Common grounds are raised by this assessee for AY 2015-16 as well. There is a delay of 37 days in filing the appeal for both the assessment years for which an application for condonation of delay u/s.5 of the Limitation Act, 1961 along with an affidavit dated 26/02/2022 was filed along with the appeal memo praying for such condonation of delay. The assessee submitted that appeal against the impugned order of the CIT(A) ought to have been filed on 16.02.2022 but is filed on 26.02.2022. The assessee had filed an affidavit where it is submitted that the delay of 37 days (from 16.02.2020 to 24.03.2020) is excluding the period of limitation extended by the Hon'ble Apex Court vide its Miscellaneous Application No.21 of 2022 vide judgement dated 10.01.2022 has further extended the period of limitation till 28.02.2022. The assessee has stated in the affidavit that he was preoccupied and under tremendous stress in sorting out various issues relating to his finances since there were lots of pressure from loan creditors, financial institutions from where the assessee has taken loan. It is further stated that due the said reasons assessee could not meet the counsel for advise and preparation of papers for filing the appeal before the Tribunal. The assessee has also stated that from Mar'20 there was a complete lock down and the assessee has filed the appeal as soon the covid-19 restrictions were lifted.

11. The ld AR submitted during the course of hearing that there was sufficient cause for the assessee for not filing the appeal on time and

prayed for a lenient and compassionate view in condoning the delay of 37 days. The Id DR opposed the condonation of delay.

12. We have heard the rival submissions on the condonation of delay in filing the appeal. Following the Supreme Court decision of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471 (SC), we are of the view that there was reasonable cause for the delay in filing the appeal and condone the delay.

13. During the course of hearing, the Id. AR presented arguments with regard to the issue on merits and submitted that if the issue is adjudicated on merits, then the legal grounds will become academic. We therefore proceed to adjudicate the issue on merits in the following paragraphs.

Additions made towards the deposits made in the name of Shri Bore Gowda

14. The first issue contended is with regard to addition made with respect to the cash deposits made into the bank account in the name of Shri. Bore Gowda. In this regard the Id. AR submitted that it is an undisputed fact that the accounts in the name of Shri Bore Gowda belongs to the assessee and this fact has been accepted by the assessee. The assessee in the books of accounts has reflected the amount in the bank account as an advance given to Shri Bore Gowda and this fact is acknowledged by the AO in his remand report. However, the AO has stated that the amount is not reflected under the head 'cash at bank' and merely based on this, the said amount is treated as undisclosed. The Id. AR submitted that since the account is in the name of Shri Bore Gowda, the assessee has disclosed the same as advances given instead of bank balance. The Id. AR also submitted that no assessment towards

the deposits in the said bank account is made in the hands of Shri Bore Gowda. The Id. AR also drew our attention to the various details submitted before the AO including the bank account details, cash flow statements of the assessee and Smt. K R Geetha. The Id. AR also drew our attention to the bank statement of Shri Bore Gowda (pg. 39 of PB) wherein it becomes very clear that the source for cash deposit is the earlier withdrawals of cash from the bank. The Id. AR further submitted that the transfer of funds from the assessee to the bank account of Shri Bore Gowda was done through proper banking channels and have been properly accounted for in the books of accounts. The Id. AR argued that there is no undisclosed money in the hands of the assessee and the addition is made merely based on the assumption that the cash withdrawals which got re-deposited have not been withdrawn for the purpose of construction activities of the assessee.

15. The Id. DR argued that from the analysis of the cash flow statement of the assessee, it can be observed that the cash withdrawn by Shri Bore Gowda have been re-deposited again into the bank account without using the same for construction activity of the assessee as claimed. The Id. DR drew our attention to the order of the CIT(A) who has rightly brought out this anomaly and submitted that the CIT(A) has correctly confirmed the addition since the assessee could not substantiate with bills or other evidence of having spent the money towards construction. The Id. DR further submitted that there have been increase in the building under construction balance as per the statement of accounts of the assessee, but this is not supported by the withdrawals being spent for construction activity as per the bank statement. The Id. DR therefore submitted that the assessee has not

spent the money withdrawn from the bank account towards construction activities and the deposit made are not out of the withdrawals as claimed by the assessee. The Id. DR further submitted that the assessee has made two contradicting submissions whereby initially it was said that the amount withdrawn is used for the construction activities and the balance unspent was redeposited into the bank account. Later, the assessee changed his stand by stating that the amount was withdrawn for the purpose of agricultural land and cash was redeposited when the purchase did not go through due to the faulty titles of the seller. It was therefore argued by the Id. DR that the assessee changed his submission as he could not substantiate with bills and other evidence of having spent the money for the purpose of construction and this would support the decision of the CIT(A) to confirm the addition u/s. 69A of the Act.

16. We have considered the rival submissions and perused the material on record. It is an admitted fact that the money in the bank account of Shri Bore Gowda belongs to the assessee and the fund transfer from assessee's bank account to the account of Shri Bore Gowda is done through banking channels. The AO during the original assessment proceedings raised questions with regard to the fact that out of the cash withdrawn around 81% is being re-deposited back without any explanation as to why cash was withdrawn if the purpose is to re-deposit the same. In the remand report as extracted in the CIT(A)'s order, the AO's contention for rejecting the submissions of the assessee is that the bank balance in the name of Shri. Bore Gowda is not shown as "cash at bank" in assessee's books but as "advances and deposits". We are unable to appreciate this contention, since the AO has not given any adverse finding with respect to the amount of bank balance

between the bank statement and the assessee's book, but the head under which it is shown. We also see merit in the argument that since the bank account is in the name of Shri Bore Gowda, assessee cannot show it under his "cash at bank" balance but only as an advance.

17. The reason for CIT(A) confirming the addition is mainly that the assessee has not given any specific details regarding the purpose of withdrawals, quantum utilisation and the nexus between the withdrawal and deposits. The CIT(A) has also held that the reasons provided for re-deposits being the transaction of purchase of agricultural land was also not substantiated with regard to the party details, lands sought to be purchased etc. The CIT(A) has also given factual findings with regard to the entries in the cash flow statements where the deposits are more than the previous withdrawals. The CIT(A) further held that the except for the property in assessee's wife's name the rest of properties are already let out deriving rental income and therefore the utilisation as claimed by the assessee towards construction is not substantiated correctly.

18. On perusal of the cash flow statement of Shri Bore Gowda (page 39 of paper book) it is noticed that there is no negative cash balance at any point in time and therefore the findings of the CIT(A) with regard to withdrawals being less than the deposits on certain dates is not factually correct, since cash balance has always been positive supporting the claim that the deposits are out of the earlier withdrawals. According to the assessee the money has come into the bank account of Shri Bore Gowda through normal banking channel from assessee's account and the CIT(A) has held that the assessee has not provided sufficient details with regard to the same i.e. what is the

source from where the deposits have been made into the bank account of Shri Bore Gowda. From the perusal of the assessment records it is noticed that the assessee has submitted the bank statements, cash flow statement etc., before the lower authorities. However in the order, the CIT(A) has held that sufficient details were not submitted by the assessee without specifying what are the further details required to be submitted to substantiate the source. The CIT(A) had also raised a doubt on the properties on which the assessee has incurred construction expenses, but has not given any findings based on the evidences already submitted or whether any further details had been called for. In view of these findings, we are of the considered view that the CIT(A) has not verified the details submitted by the assessee to conclude any adverse findings but has concluded by merely stating that sufficient details have not been furnished. The findings of the AO in remand report is only with regard to head under which the bank account of Shri Bore Gowda is shown and not with respect to the details furnished. Considering these facts we are of the view that it would be just and proper to remit the issue of addition made with respect to the bank account held in the name of Shri Bore Gowda back to the CIT(A) to examine the issue afresh based on the details submitted and call for further details as may be required to substantiate the claim after giving a reasonable opportunity of being heard to the assessee.

Additions made towards the deposits made in the name of the assessee

19. With regard to the additions made towards cash deposits into the bank account in the name of the assessee, the bench during the course of hearing called for submissions from the ld AR. The ld AR filed a

detailed written submission which has been taken on record. The gist of the written submissions by the Id AR are: -

- (i) The assessee has submitted the detailed cash flow statement for the years under consideration before the lower authorities
- (ii) That there is no deficit in the cash balance of the assessee and this fact has not been disputed by the revenue
- (iii) The cash in hand position as of 31.03.2014 and 31.03.2015 reconciles with the statement of affairs of the assessee as on the said dates
- (iv) That the assessee has already submitted the reasons for withdrawals and re-deposit in detail
- (v) The AO has assumed the deposits as unexplained, as recited in page [4] of the respective assessment years which findings are purely arbitrary based on assumptions and presumptions, suspicion and surmise
- (vi) That the CIT(A) has not given any independent finding
- (vii) That there were no other incomes of the appellant that could have stated that such deposits have emanated / camouflaged from out of such sources of incomes not disclosed to tax
- (viii) The source of income for the assessee is from rental income of the properties and the loans taken from the bank
- (ix) That the loan details have already been verified by the authorities in the earlier assessment year
- (x) The revenue accepted the similar submissions made by the assessee for the assessment year 2016-17 has and the documents relating to the same is submitted in paged 1 to 160 of paper book dated 23.08.2022

20. With regard to the contention that the details of construction have not been submitted, the Id AR submitted before the bench the ledger copies in respect of two properties viz. Industrial Suburb, Rajajinagar and Sadashivnagar Property explaining the movement in the balances due to cost of construction. The Id AR also submitted that

these spends are done out of the funds from the bank account of the assessee. In this regard our attention was drawn to the entries reconciling between the bank account and the ledger account of the property. The scanned copy of these ledger accounts are given below –

Ravikumar B.V - (From 1-Apr-2013)

No.1038,10th 'D' Cross
2nd Stage, WOC Road,
Mahalakshmpuram
Bangalore

Commercial Bldg at No 121/B Rajaji

Ledger Account

1-Apr-2013 to 31-Mar-2014

Date	Particulars	Vch Type	Vch No.	Debit	Credit
01-04-2013 To	Opening Balance			76912136.00	
31-03-2014 To	Cash	Payment	301	8022600.00	
	<i>Amount spent for the improvement of NN building Rajajinagar out of the loan from Bajar Fin ltd</i>				
				84934736.00	
	By	Closing Balance			84934736.00
				84934736.00	84934736.00

Ravikumar B.V - (From 1-Apr-2013)

No.1038,10th 'CY Cross
2nd Stage, WOC Road,
Mahalakshmpuram
Bangalore

Cash Book

1-Apr-2013 to 31-Mar-2014

Date	Particulars	Vch	Vch No	Debit	Credit
01-04-2013 To	Opening			3184474.00	
13-04-2013 By (as per details)		Payment	16		623664.00
	Janatha Seva Co-Op Bank Loan JBL/392			250000.00 Dr	
	Interest on JSCB Laon -392			373664.00 Dr	

20-04-2013 To Axis Bank	Contra	1	2000000.00	
04-05-2013 To Janatha Seva Co-Ope. Bank Ltd. SB A/c 3625	Contra	2	1200000.00	
10-05-2013 To Axis Bank	Contra	3	1000000.00	
10-05-2013 By (as per details)	Payment	47		608767.00
Janatha Seva Co-Op Bank Loan JBLJ392			250000.00 Dr	
Interest on JSCB Laon -392			358767.00 Dr	
10-05-2013 To Hdfc Bank	Contra	4	160000.00	
14-05-2013 By Axis Bank	Contra	5		600000.00
14-05-2013 By Axis Bank	Contra	6		650000.00
14-05-2013 By Axis Bank	Contra	7		1400000.00
23-05-2013 To Axis Bank	Contra	8	400000.00	
23-05-2013 By Janatha Seva Co-Ope. Bank Ltd. SB A/c 3625	Contra	9		95000.00
10-06-2013 By (as per details)	Payment	78		617303.00
Janatha Seva Co-Op Bank Loan JBU392			250110.00 Dr	
Interest on JSCB Laon -392			367193.00 Dr	
12-06-2013 By Janatha Seva Co-Op Bank SB/5928	Contra	10		1000.00
12-06-2013 By Janatha Seva Co-Ope. Bank Ltd. SB A/c 3625	Contra	1		50000.00
17-06-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	12	2000000.00	
17-06-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	13	1500000.00	
18-06-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	14	3000000.00	
19-06-2013 To Janatha Seva Co-Op Bank SB/5920	Contra	15	3500000.00	
20-06-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	16	500000.00	
26-06-2013 To Janatha Seva Co-Op Bank S13/5928	Contra	18	5000000.00	
29-06-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	19	4000000.00	
04-07-2013 By Janatha Seva Co-Op Bank SB/5928	Contra	20		900000.00
09-07-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	21	3500000.00	
10-07-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	23	2000000.00	
12-07-2013 By Janatha Seva Co-Op Bank SB/5928	Contra	25		54080.00
12-07-2013 To Janatha Seva Co-Ope. Bank Ltd. SB A/c 3625	Contra	26	54080.00	
20-07-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	28	1800000.00	
22-07-2013 To Janatha Seva Co-Op Bank SE/5928	Contra	30	1500000.00	
07-08-2013 By (as per details)	Payment	144		1259863.00
Janatha Seva Co-Ope Bank Ltd -JBL-153			500000.00 Dr	
Interest on JSCB Loan -153			759863.00 Dr	
26-08-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	32	3500000.00	
06-09-2013 To Janatha Seva Co-Op Bank S1315928	Contra	33	3500000.00	
07-09-2013 By (as per details)	Payment	167		1252671.00
Janatha Seva Co-Ope Bank Ltd -JP'.-15'			500000.00 Dr	
Interest on JSCB Loan -153			752671.00 Dr	
10-09-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	35	4000000.00	
13-09-2013 By Axis Bank	Contra	36		500000.00
16-09-2013 By Axis Bank	Contra	37		950000.00
20-09-2013 To K R Geetha	Receipt	83	3000000.00	
05-10-2013 By (as per details)	Payment	183		1222466.00
Janatha Seva Co-Ope Bank Ltd -JBL-153			500000.00 Dr	
Interest on JSCB Loan -153			722466.00 Dr	
15-10-2013 To K R Geetha	Receipt	98	2500000.00	
15-10-2013 By Janata Seva Co-Op Bank SB/5928	Contra	38		2000000.00
21-10-2013 To Janatha Seva Co-Op Bank SB/5928	Contra	39	5000000.00	
27-10-2013 By Janatha Seva Co-Op Bank SB/5928		40		100000
08-11-2013 By (as per details)		206		1239726.00
Janatha Seva Co-Ope Bank Ltd -JBL-153			500000.00 Dr	
Interest on JSCB Loan -153			739726.00 Dr	
12-11-2013 To Janatha Seva Co-Op Bank SB/5928		41	50000.00	
28-12-2013 By Janatha Seva Co-Op Bank SB/5928		44		900000.00
30-12-2013 By Janatha Seva Co-Op Bank SB/5928		46		600000.00
04-01-2014 By Janatha Seva Co-Op Bank SB/5928		47		1250000.00
16-01-2014 To Janatha Seva Co-Op Bank S1315928		48	1000000.00	
17-01-2014 To Janatha Seva Co-Op Bank SB/5928		49	3100000.00	
20-01-2014 To Janatha Seva Co-Op Bank SB/5928		50	2000000.00	

25-01-2014 To K R Geetha	130	500000.00	
25-01-2014 By Janatha Seva Co-Op Bank SB/5928	51		40000.00
29-01-2014 By Janatha Seva Co-Op Bank SB/5928	52		900000.00
06-02-2014 By Janatha Seva Co-Op Bank SB/5928	54		1220650.00
13-02-2014 By Axis Bank	55		70000.00
16-02-2014 By Janatha Seva Co-Op Bank SB/5928	56		217500.00
18-02-2014 By Axis Bank	57		220000.00
19-02-2014 To Janatha Soya Co-Op Bank SB/5928	58	2500000.00	
20-02-2014 To Janatha Seva Co-Op Bank SB/5928	59	3000000.00	
02-03-2014 To Janatha Seva Co-Op Bank SB/5928	62	2045000.00	
06-03-2014 By Janatha Seva Co-Ope Bank Ltd -JBL-153	289		500000.00
14-03-2014 To Janatha Seva Co-Op Bank SB/5928	64	1000000.00	
15-03-2014 To Janatha Seva Co-Op Bank SB/5928	65	2350000.00	
20-03-2014 By Janatha Seva Co-Op Bank SB/5928	66		700000.00
27-03-2014 By Janatha Seva Co-Op Bank SB/5928	67		800000.00
28-03-2014 By Janatha Seva Co-Op Bank SB/5928	68		400000.00
29-03-2014 By Janatha Seva Co-Op Bank SB/5928	70		437000.00
30-03-2014 By Janatha Seva Co-Op Bank SB/5928	71		2300000.00
31-03-2014 By Commercial Bldg at No 121/B Rajajinagar	301		8022600.00
31-03-2014 By Civil Works Incurred at Residential Property	302		35460000.0
		75343554.00	68162290.0
By Closing Balance			7181204.00
		75343554.00	75342554.0

Ravikumar B.V - (From 1-Apr-2013)

No.1038,10th 'D' Cross
2nd Stage, WOC Road,
Mahalakshmpuram
Bangalore

Civil Works Incurred at Residential

Ledger Account

1-Apr-2013 to 31-Mar-2014

Date	Particulars	Vch Type	Vch No.	Debit	Credit
31-03-2014 To	Cash	Payment	302	35460000.00	
31-03-2014 By	K R Geetha	Journal	38		20000000.00
	<i>Transferred to KRG for Sadashivanagar construction</i>				
31-03-2014 To	Bore Gowda	Journal	39	15447854.00	
	<i>Expenses incurred for Civil works at Sadashivanagar</i>				
				50907854.00	20000000.00
By	Closing Balance				30907854.00
				50907854.00	50907854.00

Ravikumar B.V - (From 1-Apr-2013)
 No.1038,10th 'D' Cross
 2nd Stage, WOC Road,
 Mahalakshampuram
 Bangalore
 Bore Gowda
 Ledger Account

1-Apr-2013 to 31-Mar-2014						
Date	Particulars	Vch Type	Vch No	Debit	Credit	
13-04-2013	To Axis Bank	Payment	11	10000000.00		
18-04-2013	To Axis Bank	Payment	22	10000000.00		
27-04-2013	To Axis Bank	Payment	36	5000000.00		
27-04-2013	By Hdfc Bank	Receipt	13		900000.00	
28-05-2013	By Axis Bank	Receipt	21		10000000.00	
29-05-2013	By Hdfc Bank	Receipt	22		900000.00	
08-06-2013	To Axis Bank	Payment	72	200000.00		
10-06-2013	To Axis Bank	Payment	73	950000.00		
10-06-2013	To Axis Bank	Payment	7 ⁴	5000000.00		
28-06-2013	By Hdfc Bank	Receipt Payment	36		900000.00	
09-07-2013	To Axis Bank		110	1100000.00		
18-07-2013	To Axis Bank	Payment	119	700000.00		
29-07-2013	By Hdfc Bank	Receipt Payment	54		900000.00	
05-08-2013	To Axis Bank		140	950000.00		
24-08-2013	To Janatha Seva Co-Op Bank SB/5928	Payment	150	125000.00		
28-08-2013	By Hdfc Bank	Receipt	71		900000.00	
04-09-2013	To Axis Bank	Payment	161	950000.00		
06-09-2013	To Axis Bank	Payment	165	2000000.00		
07-09-2013	To Axis Bank	Payment	166	600000.00		
30-09-2013	By Hdfc Bank	Receipt	88		900000.00	
28-10-2013	By Hdfc Bank	Receipt	100		900000.00	
09-11-2013	To Axis Bank	Payment	207	950000.00		
18-11-2013	By Axis Bank	Receipt	105		1800000.00	
27-11-2013	By Hdfc Bank	Receipt	110		900000.00	
17-02-2014	By Axis Bank	Receipt	135		1800000.00	
18-02-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	273	220000.00		
31-03-2014	By Civil Works Incurred at Residential Property	Journal	38		15447854.00	
				38745000.00	36247854.00	
	By Closing Balance				2497146.00	
				38745000.00	38745000.00	

Ravikumar B.V - 2014-15

No.1038,10th 'D' Cross
 2nd Stage, WOC Road,
 Mahalakshampuram
 Bangalore

Civil Works Incurred at Residential

Ledger Account
 1-Apr-2014 to 31-Mar-2015

Date	Particulars	Vch Type	Vch No.	Debit	Credit
01-04-2014	To Opening Balance			30907854.00	
28-05-2014	To Axis Bank	Payment	40	2567500.00	

		<i>Ch. No :158020, paid to</i>			
		<i>DEFA Solutions</i>			
22-07-2014	By Axis Bank	Receipt	45		181785.75
10-10-2014	To Axis Bank	Payment	132	3775000.00	
		<i>Ch. No. :503383, paid to</i>			
		<i>DEFA Solutions</i>			
11-10-2014	By Axis Bank	Receipt	84		30293.00
		<i>Ch. No. .594232</i>			
31-03-2015	To Bore Gowda	Journal	93	21240821.00	
		<i>Expenses incurred at</i>			
		<i>Residential house at</i>			
		<i>Sadashivanagar</i>			
				58491175.00	212078.75
By	Closing Balance				58279096.25
				58491175.00	58491175.00

Ravikumar B.V - 2014-15

No.1038,10th 'D' Cross
2nd Stage, WOC Road,
Mahalakshimpuram
Bangalore

Bore Gowda

Ledger Account

1-Apr-2014 to 31-Mar-2015

Date	Particulars	Vch Type	Vch No.	Debit	Credit
01-4-2014	To Opening Balance			2497146.00	
15-04-20014	By Axis Bank	Receipt	6		375000.00
		<i>Ch. No. :188442</i>			
20-05-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	33	3800000.00	
		<i>Ch. No. 217199</i>			
21-05-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	35	3000000.00	
		<i>Ch. No. :217200</i>			
21-05-2014	To Axis Bank	Payment	36	2500000.00	
		<i>Ch. No. .134629</i>			
27-06-2014	By Hdfc Bank	Receipt	34		900000.00
		<i>Ch. No. :219883</i>			
23-07-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	81	1150000.00	
		<i>Ch. No. :221289</i>			
05-08-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	91	3000000.00	
		<i>Ch. No. :221291</i>			
11-08-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	96	3500000.00	
		<i>Ch. No. :221292</i>			
28-08-2014	By Hdfc Bank	Receipt	59		900000.00
		<i>FT 0009038000366, JANATHA SEVA CO</i>			
		<i>OPERATIVE</i>			
29-09-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	123	900000.00	
		<i>Ch. No. :221294</i>			
29-09-2014	By Hdfc Bank	Receipt	70		900000.00
		<i>FT 0009038000366, JANATHA SEVA CO</i>			
		<i>OPERATIVE</i>			
01-10-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	128	1100000.00	
		<i>Ch. No. :209077</i>			
28-10-2014	By Hdfc Bank	Receipt	87		900000.00
		<i>FT 0009038000366, JANATHA SEVA CO</i>			
		<i>OPERATIVE</i>			
26-11-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	153	1000000.00	
		<i>Ch. No. :227551</i>			
27-11-2014	By Hdfc Bank	Receipt	99		900000.00
		<i>FT 0009038000366, JANATHA SEVA CO</i>			
		<i>OPERATIVE</i>			
01-12-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	158	1000000.00	
		<i>Ch. No. :221300</i>			
10-12-2014	To Janatha Seva Co-Op Bank SB/5928	Payment	161	596000.00	
		<i>Ch. No. 227555</i>			
27-12-2014	By Hdfc Bank	Receipt	111		900000.00

	<i>FT 0009038000366, JANATHA SEVA CO</i>		
	<i>OPERATIVE</i>		
29-12-2014 To	Axis Bank	Payment 168	900000.00
	<i>Ch. No. :503376</i>		
05-01-2015 To	Axis Bank	Payment 174	500000.00
	<i>Ch. No. :503377</i>		
28-01-2015 By	Hdfc Bank	Receipt 125	900000.00
	<i>FT 0009038000366, JANATHA SEVA CO</i>		
	<i>OPERATIVE</i>		
29-01-2015 To	Axis Bank	Payment 186	900000.00
	<i>Ch. No. :503389</i>		
02-02-2015 To	Axis Bank	Payment 191	900000.00
	<i>Ch. No. :503392</i>		
23-02-2015 By	Janatha Seva Co-Op Bank SB/5928	Receipt 135	1000000.00
26-02-2015 By	Hdfc Bank	Receipt 138	900000.00
	<i>FT 0009038000366, JANATHA SEVA CO</i>		
	<i>OPERATIVE</i>		
03-03-2015 To	Janatha Seva Co-Op Bank SB/5928	Payment 208	1000000.00
	<i>Ch. No. :227571</i>		
04-03-2015 To	Janatha Seva Co-Op Bank SB/5928	Payment 210	1000000.00
	<i>Ch. No. :227573</i>		
06-03-2015 To	Janatha Seva Co-Op Bank SB/5928	Payment 216	1000000.00
	<i>Ch. No. :354882</i>		
06-03-2015 To	Axis Bank	Payment 220	1500000.00
	<i>Ch. No. :503397</i>		
06-03-2015 To	Axis Bank	Payment 221	1000000.00
	<i>Ch. No. :503372</i>		
28-03-2015 By	Hdfc Bank	Receipt 152	900000.00
30-03-2015 By	Janatha Seva Co-Op Bank SB/5928	Receipt 155	2000000.00
	<i>Ch. No. :226895</i>		
31-03-2015 By	Civil Works Incurred at Residential Property	Journal 93	21240821.00
	<i>Expenses incurred at Residential house at Sadashivanagar</i>		
			32743146.00 32715821.00
By	Closing Balance		27325.00
			32743146.00 32743146.00

21, The ld DR submitted that the details of bills and vouchers with respect to the construction have not been produced. The ld DR also submitted that the movement in the various property balances have to be verified with the corresponding entries and supporting which has not been done in the case. The ld DR also argued that these details have not been furnished by the assessee and that is the reason for the addition being sustained by the CIT(A) as has been mentioned in the order. Therefore the ld DR supported the order of the lower authorities.

22. We heard the rival submissions. On perusal of the ledger copies submitted by the assessee and the cash book/cash flow statements it is noticed that the entries in the cash book/cash flow statement with respect to the spend on the construction is reconciling at an overall level. However from the ledger as extracted in the earlier part of the

order, the spend towards construction is accounted by way of a single entry which does not corroborate with the submission that the various withdrawals are used for construction spends and balance re-deposited. From an accountant's parlance there is nothing wrong in bunching and accounting the cost by the single entry. However the issue contended is the withdrawal being spent for construction which is not clearly evidenced by single transfer entry to support the contention of the assessee. This would need detailed examination with regard to the breakup of the construction spends, when the actual spending happened and the supporting documents evidencing the spending. It is also noticed that neither the AO in the remand report nor the CIT(A) in his order has recorded any finding specifically with respect to the additions made towards the deposits in the assessee's bank account, though we notice that the assessee had submitted the bank statements, cash flow statement etc before the CIT(A). In view of this we are of the considered view that the issue of addition made towards the cash withdrawals from assessee's bank account should be remitted to the CIT(A) with a direction to examine the issue afresh based on the ledgers and other documentary evidences. The assessee is directed submit the details in support of the contentions and cooperate with the proceedings. It is ordered accordingly.

23. For AY 2015-16 also the Id AR submitted a detailed written submission along with the ledger copies which were taken on record. The facts for AY 2015-16 being identical, the appeal for 2015-16 is also remitted to the CIT(A) for examination afresh and needless to say that the assessee may be given a reasonable opportunity of being heard.

24. In result the appeal of the assessee in ITA Nos.137 & 138/Bang/2022 is allowed for statistical purposes.

ITA Nos.2305 & 2306/Bang/2019 – In the case of K R Geetha

25. The assessee, Smt K R Geetha, is an individual deriving income predominantly from let out properties returned under the head “income from house property” apart from income from “other sources”. The assessee filed the return of income for the assessment year 2014-15 on 01.06.2015 declaring the total income of Rs.57,39,350. For assessment year 2015-16, the return was filed on 29.02.2016 declaring a total income of Rs.68,09,700. Subsequently, the assessee’s case was taken up for scrutiny and the assessment was completed u/s. 143(3) accepting the returned income.

26. On 21.9.2016, a survey u/s. 153A was conducted by the Officers of Range 3(2), Bangalore in the case of one, Shri V. Bore Gowda. The AO of the assessee received information that the transactions in bank accounts of Shri Bore Gowda in Janatha Seva Co-op. Bank actually belonged to the assessee and her husband Shri. B V Ravikumar, with whom Shri V. Bore Gowda was employed with. The cash deposits in the account of Shri Bore Gowda was Rs.3,34,97,850 for AY 2014-15 and Rs.1,36,04,350 for AY 2015-16 respectively. In the light of this information, the AO issued a notice u/s. 148 dated 28.3.2017 for AY 2014-15.

27. The assessee and her husband B V Ravikumar made a joint submission before the AO which is extracted in the earlier part of this order. The AO did not accept the submissions of the assessee and stated that the cash deposited is nothing but unaccounted money and brought the same to tax u/s. 69A of the Act. Accordingly, the sum of

Rs.45,69,966 for AY 2014-15 and an amount of Rs.50,95,263 for AY 2015-16 is brought to tax in the hands of the assessee towards the deposits made in the bank account in the name of Shri Bore Gowda. The AO also made similar addition towards deposits made into the bank account in assessee's own name to the tune of Rs.36,71,888 for AY 2014-15 and Rs.1,04,24,000 for AY 2015-16.

28. Aggrieved the assessee filed an appeal before the CIT(A) contending the legality of the reassessment proceedings stating that the same is initiated by a change of opinion since the bank account details of Shri Bore Gowda was already available in records during original assessment proceedings. The CIT(A) sent the assessee's submissions to the AO and called for a remand report. On the legal issue, the AO submitted that the notices were correctly issued and that this is not raised before the assessment proceedings. The CIT(A) upheld the reopening of assessment by stating that it was only after the survey u/s.133A that it came to the light that the bank accounts of Shri Bore Gowda were infact operated by him at the behest of the assessee and her husband and therefore cannot be held that the reopening of the assessment was based on mere change of opinion.

29. On merits the assessee submitted that the source for the cash deposits is the earlier withdrawals which were rejected by the CIT(A) by holding that :-

7.3 Regarding the merits of the additions made, the crux of the appellant's arguments is that the cash deposits were made out of earlier withdrawals. During the appellate proceedings, vide order sheet noting dated 05/12/2018, the AR was specifically asked "to file details of the purpose and utilization of cash withdrawals and the reasons for redeposit of cash as claimed along with the relevant documentary evidence". In response, the AR filed a second written submission dated 19/12/2018 in

which various reasons for cash withdrawals were given which are discussed in para 4.2 supra. However, no specific details were given as to the purpose of a particular withdrawal or the quantum of utilization nor was any correspondence drawn between the withdrawals and the subsequent deposits. A case in point being the claim that cash was withdrawn for purchase of agricultural lands and subsequently redeposited when the title was found to be faulty. No details of the parties involved, the lands sought to be purchased and the amounts involved have been filed. The appellant has claimed that the loans taken from the banks for various projects including the construction of her residential house were also the source of the cash deposits. No details have been furnished regarding the disbursal of the loan amounts and their utilization and/or redeposit out of unutilized loan amounts. It is also seen from the original assessment records from the details of the loan account filed that the loans amounting to Rs.11.88 crores were repaid by the appellant and were closed in the books of the lender i.e. Karnataka State Financial Corporation w.e.f. 12/06/2013. Hence these loans could not have been the source of the cash deposits as claimed. In view of the above facts the cash flow statement submitted by the appellant to justify the cash deposits into her bank accounts cannot be termed reliable.

7.4 Further it is observed from the .bank statements that some of the cash deposits are not preceded by adequate prior withdrawals. For instance there were two cash deposits on 04/01/2014 and 06/02/2014 of Rs.12,50,000/-and Rs.12,20,650/- respectively into the appellant's savings bank account number 5927 at Janatha Seva Cooperative Bank. The self withdrawals prior to these deposits were only Rs.1,30,000/- on 12/11/2013 and Rs.4,00,000/-on.04/12/2013. Likewise there were two cash deposits of Rs. 1,40,000/- and Rs.9,00,000/- on 27/06/2014. The only prior withdrawal was Rs.8,00,000/-on 19/04/2014 which is less than the amount deposited. On 30/03/2015, there was a cash deposit of Rs.20,00,000/- without any preceding withdrawal. An amount of Rs.7,60,000/-was transferred to Shri Bore Gowda on 24/03/2014, and subsequently Rs.7,00,000/- deposited in cash in the appellant's account on 30/03/2014. No details have been furnished as to why this amount was transferred and why almost the entire sum had been redeposited. In the account maintained by the appellant at Axis Bank account no. 141901, there are withdrawals and deposits of the same amount within a few days e.g. Rs. 5,00,000/- withdrawn on 12/09/2103 and deposited in

cash on 16/09/2013. The AO has rightly pointed out that the purpose of withdrawals could not have been to redeposit the same cash, hence this explanation of the appellant lacks merit. There are also instances where cash deposits are immediately followed by transfers to Shri Bore Gowda of an identical amount e.g. Rs.17,10,000/- deposited on 18/03/2015 and transferred on 19/03/2015. It is also noted that the appellant has not given any explanation for the cash deposits in her own account which the AO has added back for both years.

7.5 From the above discussion, it is clear that the appellant has not given any proper explanation for the source of the cash deposits and has resorted to bland averments regarding the utilization of the cash withdrawn. In a recent decision in the case of Dinesh Kumar Jain vs PCIT, New Delhi 407 ITR 65, on similar facts, the Hon'ble Delhi High Court held that where the assessee claimed that he withdrew certain amount from his bank account for construction of a building and surplus money, when not required, was redeposited, in same bank account, since assessee failed to produce any bills/vouchers relating to construction, and justify substantial cash withdrawals for meeting construction cost and re-deposits when money was not required, additions under section 68 in respect of amount redeposited was justified. In view of the foregoing discussion, the grounds of appeal raised by the appellant fail. In light of the foregoing facts, the additions made by the AG for both assessment years are sustained. The grounds of appeal raised are dismissed.

30. The assessee has raised the following grounds of appeal: -

- “1. The order passed by the learned Commissioner of Income-tax [Appeals] in so far as it is against the Appellant, is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the appellant's case.
2. The Appellant denies herself liable to be assessed on an income amounting to Rs. 1,39,81,204/- as determined by the learned assessing officer and confirmed by the learned Commissioner of Income-tax [Appeals], against the income reported by the appellant of Rs. 57,39,350/- on the facts and circumstances of the appellant's case.
3. The order of re-assessment passed under section 148 of the Act is bad in law and void-ab-initio as the mandatory conditions to invoke the provision of section 147 did not

exist and thereby the very notice issued under section 148 is also bad in law, on the facts and circumstances of the appellant's case.

- 3.1. The notice issued under section 148 of the Act is very vague and without any application of mind since the learned assessing officer has not specified as regard to which limb he has issued the notice whether to assessee or reassess the income of the appellant and consequently the subsequent proceedings which has been concluded on an invalid notice becomes bad in law, on the facts and circumstances of the appellant's case.
- 3.2. The reasons recorded by the learned assessing officer utmost may be considered as reason to suspect and under no stretch of imagination the same does not constitute reason to believe which is a basic ingredient for a valid assumption for re-assessment, on the facts and circumstances of the appellant's case.
- 3.3. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the learned assessing officer has not independently applied his mind to the facts of the case in re-opening the case of the appellant, merely based on the information obtained from the officer of the Range - 3[2], the case has been re-opened which amounts to borrowed satisfaction which is impermissible and unsustainable in the eyes of law and thus the order of assessment passed under section 148 of the Act requires to be cancelled, on the facts and circumstances of the appellant's case.
- 3.4. The learned Assessing Officer has not followed proper procedure before and after issuance of a notice under section 148 of the Act, be that may be sanction under section 151 of the Act and consequently, subsequent proceedings on an invalid procedure adopted by the learned assessing officer becomes void-ab-inito and does not have any legs to stand the test of law which renders the re-assessment order unsustainable in law, on the facts and circumstances of the appellant's case.
- 3.5. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the re-opening of an already concluded assessment is based on a change of opinion not based on any fresh material and consequently the entire reassessment is bad in law and requires to be cancelled, on the facts and circumstances of the appellant's case.

4. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the statutory notice issued by the learned assessing officer under section 143 [2] of the Act is not as per the recommended format and consequently the non-issuance of a proper notice under section 143 [2] of the Act, vitiates the entire proceedings and the order of reassessment passed requires to be cancelled, on the facts and circumstances of the appellant's case.
5. The learned Commissioner of Income-tax [Appeals] failed to appreciate that the learned assessing officer had not issued any proposition notice / questionnaire before concluding the assessment which has resulted in huge addition, is against the principles of natural justice and even on this count the impugned order of assessment ought to have been cancelled on the facts and circumstances of the appellant's case.
6. The learned Commissioner of Income-tax [Appeals] is not justified in confirming the addition of Rs. 82,41,854/- made by the learned assessing officer as unexplained money invoking the provisions of section 69A of the Act on the facts and circumstances of the appellant's case.
7. The learned Commissioner of Income-tax [Appeals] failed to properly appreciate that the deposits into the bank account amounting to Rs. 82,41,854/- [Rs. 45,69,966/- and Rs. 36,71,888/-] are out of the previous withdrawals which were re-deposited into the bank account and the entire deposits were out of explainable sources and consequently the addition made on account of unexplained money under section 69A of the Act requires to be deleted on the facts and circumstances of the appellant's case.
8. The learned Commissioner of Income-tax [Appeals] is not justified in not giving the benefit of telescoping effect with the withdrawals as the source for the deposits made into the bank account on the facts and circumstances of the appellant's case.
9. Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies herself liable to be charged to interest under section 234 A Et 234 B of the Income Tax Act on the facts and circumstances of the appellant's case. The appellant contends that the levy of interest under section 234 A, 234 B and 234 D of the Act is also bad in law as the period, rate, quantum and method of calculation adopted by the learned

assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.”

31. Common grounds are raised by this assessee for AY 2015-16 as well. The Id AR during the course of hearing furnished a detailed written submission raising similar contentions as has been presented in the case of assessee's husband B V Ravikumar. The written submissions were taken on record and the gist of the said submission has been given in the earlier part of this order. The Id AR along with the written submissions also furnished the ledger copies of the property, Shri Bore Gowda account in assessee's books and the cash book. The Id AR in the written submission raised certain specific contentions against para 7.3 to 7.5 of CIT(A)'s order. The gist of the submissions is as given below –

- (i) The loans borrowed is source for the balances in the bank and the same has already been verified by the AO
- (ii) The rental income of the assessee is Rs.10,00,000 p.m., which are duly offered to tax and this substantiates the source
- (iii) The assessee has sold one of the properties during the year for Rs.3,00,00,000 and the capital gain is offered to tax which is also a source
- (iv) The cash flow statement of the assessee has been explained to the lower authorities
- (v) The cash deposits being more than the earlier cash withdrawals have already been explained
- (vi) The decision of the Hon'ble jurisdictional High Court in the case of Smt. Padmavathi Vs. ITO and in the case of Vanitha G Vs. ITO is squarely applicable to the assessee.

32. The Id DR reiterated the submissions made in the case of assessee's husband.

33. We heard the rival submissions and perused the material on record. We notice that the facts of the assessee's case is identical and the orders of the AO and the CIT(A) are also on the same lines where the various details as submitted by the assessee have not fully verified and the additions are made on the same grounds that sufficient details have not been submitted by the assessee. We have given a detailed discussion on the facts in assessee's husband's case in the earlier part of this order which is same as that of the assessee. We therefore remit the assessee's appeal for AY 2014-15 and 2015-16 back to the CIT(A) with the similar directions.

34. In result appeals ITA Nos.137 & 138/Bang/2022 are allowed for statistical purposes

Pronounced in the open court on this 28th day of November, 2022.

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-

(PADMAVATHY S.)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 28th November, 2022.

/Desai S Murthy /

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.