

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

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.996/Bang/2024
Assessment Year: 2020-21

Mr. Mandanna Aiyanna Mundachadira Block No.11, Serenity Hall Panjarapet, Virajpet-Gonikoppa Road Kodagu 571 218 Karnataka PAN NO : ALSPK1924G	Vs.	ACIT Central Circle Hassan
APPELLANT		RESPONDENT

Appellant by	:	Sri Vishal S. Rao, A.R.
Respondent by	:	Ms. Neera Malhotra, D.R.

Date of Hearing	:	18.12.2024
Date of Pronouncement	:	23.12.2024

O R D E R

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

Present appeal of the assessee is arising from the order of Id. PCIT dated 21.3.2024 having DIN No.ITBA/COM/M/17/2023-24/1063191602(1) and relates to assessment year 2020-21.

2. Brief facts of the case are that the assessee had been searched by the Income tax department on 16.1.2020. During the course of search, cash amounting to Rs.25 lakhs belonging to the assessee was found. Thereafter, the AO completed the assessment at an income of Rs.81,30,000/-, assessing the unexplained cash seized as well as advance paid for property purchase and business receipts not accounted for by the assessee in the books of accounts.

3. The Id. PCIT while examining the case record, observed that assessee had purchased one immovable property at Balagodu village by making a payment of Rs.1,30,00,000/-. The Id. PCIT observed that the registered sale deed of the land showed the value of sale at Rs.23,33,000/- only. The Id. PCIT further observed that as per the memorandum of association dated 10.4.2019, found from the premises of the assessee, it is coming out that the assessee has paid an amount of Rs.40,00,000/- in cash towards the purchase of the property. The Id. PCIT further noted that though the assessee has paid an amount of Rs.1,30,00,000/-, out of which Rs.40,00,000/- has only been added by the AO and no enquiries with respect to the remaining amount has been made by the AO during the course of assessment proceedings. Therefore, the PCIT took a view that sum of Rs.1,06,67,000/- is the “on mony” paid by the assessee in respect of this property. The Id. PCIT further observed that out of this amount, assessee has offered only Rs.40,00,000/- during the course of assessment proceedings and the AO has also accepted the version of the assessee without making any enquiry with respect to the remaining amount of Rs.66,67,000/-. Therefore, the Id. PCIT was of the view that the order of AO is erroneous in so far as prejudicial to the interest of revenue.

4. The assessee has come up in appeal before us and challenged the jurisdiction of the Id. PCIT on the ground that the document is neither signed by the assessee and nor accepted by the assessee. It is pertinent to note that the assessee has challenged the additions made by the AO in original proceedings before the Id. CIT(A) and the same is pending before the Id. CIT(A). It is the contention of the assessee that the document relied upon by the Id. PCIT was never served to the assessee in the proceedings u/s 263 of the Act despite being asking specifically.

5. The ld. D.R. pointed out that all other details such as location of the property and cheque amount made by the assessee are matching with the seized papers, therefore, the contentions of the assessee are not tenable.

6. We have heard the rival submissions and perused the materials available on record. We observe that the impugned document which is relied upon by the ld. PCIT is there in paper book from pages 30 to 35. On page 35, certain figures are mentioned, taking cognizance of these figures, the ld. PCIT concluded that the AO failed to enquire into the veracity of these documents and hence, its order is erroneous and prejudicial to the interest of the revenue. It is worthy to note here that this document was found from the premises of the assessee and hence as per the presumption provided in section 292C of the Act, this documents belong to the assessee. Therefore, the burden is on the assessee to rebut the contents of the documents with cogent material. However, the ld. AO could not be able to look into this document during the course of assessment proceedings for the reasons best known to him. Therefore, we are of the view that it is a case of lack of enquiry and hence, we are of the firmed view that the jurisdiction assumed by the ld. PCIT u/s 263 of the Act is legally tenable. Therefore, we do not find any error in the order of ld. PCIT.

7. Before parting, we make it clear that we have not made any comments on the merits of the additions and the assessee is at liberty to explain the contents during the consequential proceedings.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 23rd Dec, 2024

Sd/-
(Prashant Maharishi)
Vice President

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated 23rd Dec, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.