

IN THE INCOME TAX APPELLATE TRIBUNAL,  
BANGALORE BENCH 'C'

**BEFORE SHRI VIJAYPAL RAO, JUDICIAL MEMBER  
AND  
SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**

ITA No.1518/Bang/2015  
(Asst. Year 2009-10)

The Asst. Commissioner of Income-tax,  
Circle-5(3)(1),  
Bangalore.

. Appellant

Vs.

Shri Jacob Methew,  
S\_1 Promenade # 76, Nandidurga Road,  
Bangalore.

. Respondent

Appellant by : Shri Sunil Kumar Agarwala, JCIT

Respondent by : Shri None

Date of Hearing : 27-04-2016

Date of Pronouncement : 29-04-2016

**ORDER**

**PER INTURI RAMA RAO, ACCOUNTANT MEMBER**

This appeal filed by the Revenue directed against the order of  
Commissioner of Income-tax (Appeals) – 5, Bangalore dated  
10/9/2015 for the assessment year 2009-10.

2. The Revenue has raised the following grounds of appeal:

- (1) The order of the CIT(A)-5, Bangalore, is opposed to the law and not on the facts and circumstances of the case.*
- (2) Whether the CIT(A) is right in granting relief to the assessee on the addition made by the AO on account of unexplained investment u/s 69 of the IT Act, 1961 since the source of investment has not been explained by the assessee, as the same has not been discussed in appellate order.*
- (3) For this and other grounds that may be urged upon, the order of the CIT(A) may be reversed and that assessment order be restored.”*

3. The brief facts of the case are that the respondent assessee is an individual and he derives income from salary. The return of income for the assessment year 2009-10 was filed on 24/3/2010 declaring income of Rs.1,53,75,400/- The said return of income after processing the return u/s 143(1) of the Income-tax Act, the case was selected for scrutiny by issuing statutory notices u/s 143(2) of the Act and the assessment was completed u/s 143(3) vide order dated 30/12/2011 at a total income of Rs.2,04,27,842/-. The disparity between returned income and assessed income is on account of addition of Rs.45,08,400/- made on account of alleged investment in

the immovable properties, as per the information received from AIR, it is alleged that the respondent assessee had failed to furnish the source for the acquisition of the said immovable property. An amount of Rs.42,842/- was also fixed as interest from the savings account.

4. The respondent assessee being aggrieved, filed an appeal before the CIT(A). It was submitted before CIT(A) that the respondent assessee had purchased a plot at Bandaramanahalli Village, Kasaba Hobli, Devanhalli Taluk, Bangalore Bangalore for a consideration of Rs.1,00,51,000/- including the development charges etc. It was further submitted that on 29/08/2008 the sale deed was executed for a consideration of 20,46,000/-. The guide line value as per the department of registration and stamp is Rs.49,08,600/-. It was further submitted before the CIT(A) that the addition cannot be made solely based on the information received from AIR. In respect of this proposition, he relied upon the decision of the ITAT in the case of G Selvakumar. Based on that the CIT(A) vide impugned order deleted the addition vide para 7 of the order which reads as under:

*“I have considered the written submission filed by the appellant and also gone through the assessment order*

*passed by the AO and also the remand report submitted. The appellant during the course of appellate proceedings has furnished the copy of absolute sale deed agreement for sale and development entered with Renaissance Holdings and Development Pvt. Ltd. After verifying the same it was found that the addition made u/s 69 on account of unexplained investment is not justified and, therefore, the appeal on this ground is allowed.*

6. Aggrieved, the Revenue is before us with the present appeal. Sr. DR submitted that on perusal of the order of the learned CIT(A), it is not clear on what basis CIT(A) granted relief. Addition was made on failure to furnish the source in support of acquisition of immovable properties. Nothing is visible from the orders of the CIT(A) as to any explanation offered by the assessee in support of the source for acquisition of immovable property. Hence, the matter may be restored to the file of the AO.

8. None appeared on behalf of the respondent assessee despite service of notice.

9. After hearing the learned Sr. DR we are of the considered opinion that from the perusal of the order of the CIT(A) it is not clear

on what basis the CIT(A) has granted the relief. The CIT(A) had allowed the appeal after perusal of the sale deed, agreement of sale through which property was bought. But the moot question is the addition was made for the alleged failure of the assessee to explain the source for the acquisition of property. The CIT(A) had not examined the issue from this perspective. Therefore, we are of the considered opinion that the interest of justice would be met, if the issue is restored to the file of the AO for denovo assessment after affording due opportunity to the assessee.

10. In the result, appeal filed by the Revenue is partly allowed for statistical purposes.

Order pronounced in the open court on **29<sup>th</sup> Apr, 2016.**

**Sd/-**  
**(VIJAYPAL RAO)**  
**JUDICIAL MEMBER**

Bangalore

Dated : 29/04/2016

Vms

Copy to :1. The Assessee  
2. The Revenue  
3.The CIT concerned.  
4.The CIT(A) concerned.  
5.DR  
6.GF

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

By order