

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

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT
AND SHRI B R BASKARAN, ACCOUNTANT MEMBER

ITA No.2169/Bang/2019
Assessment year: 2016-17

Regunathan Venkata Rajendran, No.14, Brunton Road 1 st Cross, Richmond Town, Bangalore – 560 025. PAN:AANPR 1095D	Vs.	The Assistant Commissioner of Income Tax, Circle 7(2)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri H. Ananda, Addl. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	06.08.2020
Date of Pronouncement	:	07.08.2020

ORDER

Per N.V. Vasudevan, Vice President

This appeal by the assessee is against the order of CIT(Appeals)-7, Bengaluru dated 28.06.2019 in relation to assessment year 2016-17.

2. The assessee is an individual. He filed a return of income for the AY 2016-17 declaring a total income of Rs.45,94,340. The source of income of assessee is from salary, income from house property, business and other sources. The case of assessee was selected for limited scrutiny through CASS for the reason that large deduction was claimed u/s. 57 of the Act. Against interest income of Rs.91,78,313, the assessee had claimed expenses of Rs.70,28,281. Out of the expenses claimed, a sum of Rs.50,69,372 was interest payment towards bank loans and funds

borrowed from others. With regard to remaining sum of Rs.19,58,909. The break-up of the expenses was as follows:-

Sl. No.	Particulars	Amount (Rs)
1	Travelling Expenses	53,352
2	Bank Charges	14,553
3	Event Expenses	5,97,325
4	Legal Expenses	54,000
5	E I Green Management	4,74,126
6	Olive bar and Kitchen	1,50,000
7	Credit Card Expenses	6,15,553
		19,58,909

“As the expenses of Rs. 19,58,909/- was not expended to earn income for which deduction is claimed, the assessee was asked to show cause as to why, the said expenses be disallowed.”

3. The AO was of the view that the aforesaid expenses cannot be considered as expenses incurred for the purpose of earning interest income and he therefore disallowed a sum of Rs.18,37,004 out of the aforesaid expenses by allowing only travelling expenses.

4. The assessee was aggrieved by the aforesaid action of the AO and preferred appeal before the CIT(Appeals). The specific ground raised by the assessee was with regard to disallowance of Rs.18,37,004 made by the AO. The CIT(Appeals), after noticing that the claim of assessee for deduction of aforesaid expenses was on the basis that the assessee was required to meet people on regular basis to raise investments and collecting funds and that the expenses were not capital in nature, held that 50% of credit card expenses and Oliver Bar and Kitchen Pvt. Ltd. should be disallowed. Following were the relevant observations of the CIT(Appeals):-

“The submissions of the appellant has been considered. The need of the appellant to meet people and entertain them for mobilizing investment cannot be denied. At the same time, use of credit card for personal purposes also cannot be ruled out. There is nothing

on record to show that the AO has called for details and raised doubt about the genuineness of incurring these expenses and it is merely held that these expenses are bereft of justification. Considering the facts in entirety, it would be appropriate to disallow 50% of the expenses claimed for Olive bar and kitchen of Rs.1,50,000/- and credit card expenses of Rs.6,15,553/-. Hence the disallowance will be Rs.3.82,776/-. The ground of appeal is partly allowed.”

5. Aggrieved by the order of CIT(Appeals), the assessee has preferred the present appeal before the Tribunal:-

6. The grounds of appeal raised by the assessee reads as follows:-

“1. CIT Appeal's order is opposed to the law and facts of the case.

2. CIT Appeal erred in considering only part of expenses of Rs.6,15,553 whereas Rs.18,37,004 was the addition. In the grounds of appeal addition of Rs.18,37,004 was contested.

3. CIT Appeal erred in allowing only 50% of the expenses of Rs.6,15,553 under pretext that it would be appropriate to disallow 50% of expenses. CIT(A) did it on surmise without adducing any reasons.

4. CIT Appeal erred in not examining the remaining expenses of Rs.12,21,451 which was spent for business expansion.

5. Hon'ble ITAT may kindly allow the appeal and render justice to the appellant.”

7. After hearing the rival submissions, we find that the issue of disallowance of expenses requires *de novo* consideration by the CIT(Appeals). Admittedly, the entire addition of Rs.19,58,909 made by the AO was challenged by the assessee before the CIT(Appeals). The CIT(A) had considered only 2 out of 7 items of expenditure listed by the AO in the order of assessment. He did not consider the submissions with regard to

remaining items of expenditure. The assessee in this appeal has also projected its grievance against disallowance of 50% of Oliver Bar and Kitchen Pvt. Ltd. and credit card expenses. In our opinion, the entire issue of disallowance needs to be considered afresh by the CIT(Appeals), after taking a holistic view of the basis of disallowance made by the AO and the claim of assessee that the expenses in question were incurred for the purpose of earning interest income. We accordingly set aside the order of CIT(Appeals) and direct the CIT(Appeals) to decide the issue of disallowance of expenses afresh in accordance with the law, after affording assessee opportunity of being heard.

8. In the result, the appeal by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on this 07th day of August, 2020.

Sd/-

(B R BASKARAN)
ACCOUNTANT MEMBER

Sd/-

(N V VASUDEVAN)
VICE PRESIDENT

Bangalore,

Dated, the 07th August, 2020.

/Desai S Murthy /

Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.