

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

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT**

ITA No.959/Bang/2024
Assessment Year : 2015-16

Mr. Shashidhara, C/o Shadakshari Sri Banashakari Nilaya, Kuvempu Road, Besides Mant Kuvempu Road, Shivamogga – 577 201. <b>PAN : CZYPS 1448 D</b>	Vs.	ITO, Ward – 1 and TPS, Shivamogga.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Gowrish, CA
Revenue by	:	Shri. Ganesh R Gale, Standing Counsel for Department.

Date of hearing	:	25.06.2024
Date of Pronouncement	:	25.06.2024

**ORDER**

***Per George George K, Vice President:***

This appeal at the instance of the assessee is directed against the order of CIT(A) dated 10.01.2024, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2015-16.

2. There is a delay of 68 days in filing this appeal. Assessee has filed a petition for condonation of delay and also a supporting affidavit stating therein the reasons for belated filing of this appeal. On perusal of the reasons stated in the application for condonation of delay for belated filing of this appeal and I am of the view that there is reasonable cause and no laches can be attributed to the assessee for belated

filing of this appeal. Hence, I condone the delay of 68 days in filing this appeal and proceed to dispose off the same on merits.

3. Brief facts of the case are as follows:

During the course of survey in the case of Shri. L. Venkatesh on 18.02.2019, a statement was recorded from him under section 133A of the Act. Shri. L. Venkatesh had stated that he had received a sum of Rs.15 lakhs as liasoning charges from the assessee. Since assessee had not filed the return of income for the Assessment Year 2015-16 and the source of cash paid by the assessee to Shri. L. Venkatesh was to be examined, a notice under section 148 of the Act was issued to the assessee. Since there was no response to the several notices issued under section 142(1) of the Act, assessment was completed under section 144 r.w.s. 147 of the Act vide order dated 29.09.2021 adding a sum of Rs.15 lakhs under section 69C r.w.s. 115BBE of the Act.

4. Aggrieved, assessee filed appeal before the CIT(A). Since there was no response to the several notices issued from the Office of the CIT(A) for furnishing the written submissions, the CIT(A) passed an ex-parte order confirming the addition made under section 69C of the Act.

5. Aggrieved by the Order of the CIT(A), assessee has preferred the present appeal before the Tribunal. The learned AR submitted that assessee was not computer literate and did not access email on regular basis. It was further submitted that assessee was suffering from Acid Peptic disease with reflux oesophagitis. A certificate to the effect has been produced and is placed on record. It was submitted that assessee's son got married during the course of appellate proceedings which resulted in non-compliance to the notice issued. On merits, it was submitted that assessee had not paid Rs.15 lakhs to

Shri. L. Venkatesh during the relevant Assessment Year. It was submitted that in the interest of justice and equity, assessee may be provided with one more opportunity to present his case.

6. The learned Standing Counsel supported the Orders of the AO and CIT(A).

7. I have heard the rival submissions and perused the material on record. The CIT(A) has passed ex-parte order for the reason that assessee had not responded to several notices issued from the Office of the CIT(A). It is the claim of the assessee that he is not computer literate and did not check emails regularly. Further, it is submitted that assessee's son's marriage was conducted during the course of appellate proceedings. A certificate to the effect has been placed on record. In the interest of justice and equity, I am of the view that assessee ought to be provided with one more opportunity to present his case. Since the Assessment Order is best judgment assessment, I deem it appropriate to restore the matter to the AO. The AO is directed to afford a reasonable opportunity of hearing to the assessee before a decision is taken in the matter. It is ordered accordingly.

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

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(GEORGE GEORGE K)**  
**Vice President**

Bangalore.

Dated: 25.06.2024.

/NS/\*

Copy to:

1. Appellants
2. Respondent
3. DRP
4. CIT
5. CIT(A)
6. DR, ITAT, Bangalore.
7. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.