

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos.1223 to 1225/Bang/2024
Assessment Years: 2015-16 to 2017-18

Smt. Sreenivasa Uma #208, 2 <sup>nd</sup> Main Road Mahalakshmi Layout Bengaluru 560 086  <b>PAN NO : AAKPU0426G</b>	<b>Vs.</b>	DCIT Central Circle-1(3) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Ms. Sunaina Bhatia, A.R.
<b>Respondent by</b>	:	Sri D.K. Mishra, D.R.

<b>Date of Hearing</b>	:	07.08.2024
<b>Date of Pronouncement</b>	:	30.08.2024

**O R D E R**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER:**

These are three appeals filed by the assessee challenging the order of CIT(A)-11, Bangalore dated 22.4.2024 for the assessment years 2015-16, 2016-17 & 2017-18 respectively.

**2.** Brief facts of the case are that the assessee is an agriculturist engaged in farming and floriculture activities and she also received rental income. The assessee had failed to file return of income due to various exigent circumstances and stress caused to her. The assessee's husband also undergone a major heart surgery and because of the losses, they were not able to repay the instalments for the loans obtained from the banks and therefore, the banks also initiated recovery proceedings by attaching the properties and putting properties for sale under the provisions of SARFAESI Act. In view of the above said reasons, she could not file her return of income and also not able to attend the assessment proceedings and

therefore, reassessment u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (in short "The Act") was made on 26.3.2022.

**2.1** The assessee challenged the said order before the Id. CIT(A) with a delay of 140 days. The assessee also enclosed a petition for condoning the delay in filing the appeal and explained the extraordinary circumstances under which she was not able to file the return and also not able to file the appeal in time. Before the Id. CIT(A) also, the assessee had not appeared and therefore, the Id. CIT(A) had decided the appeal ex-parte and dismissed the same on the ground of limitation. Against the said order, the assessee is before this Tribunal with the following common grounds of appeal except change in figures:

Grounds in ITA No.1223/Bang/2024 (AY 2015-16)

1. *The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence, probabilities, facts and circumstances of the case.*

2. *The learned CIT[A] is not refusing to condone the delay of 142 days in filing the first appeal without appreciating that the appellant had explained the delay on account of the financial difficulties and ill-health of the appellant and that of her spouse Mr. Narayanasetty Srinivasasetty, who was taking care of the income tax affairs of the appellant under the facts and circumstances of the appellant's case.*

3. *Without prejudice to the above, the learned CIT[A] not justified in not disposing off the grounds raised with reference to the assessment of immovable property purchased amounting to Rs.9,80,53,874/- as unexplained investment u/s. 69 of the Act under the facts and in the circumstances of the appellant's case.*

4. *The learned CIT[A] not justified in not disposing off the grounds raised with reference to the assessment of the cash deposits of Rs.5,33,41,000/- [Rs.5,19,00,000/- and 14,41,000/-] in the bank account of the appellant as unexplained investment u/s.69A rws 115BBE of the Act under the facts and in the circumstance of the appellant's case.*

5. *The learned CIT[A] not justified in not disposing off the grounds raised with reference to the assessment of the remittance to non-resident or to foreign company of Rs.27,55,000/- as unexplained*

*investment u/s.69C rws 115BBE of the Act under the facts and in the circumstances of the appellant's case.*

6. *The learned CIT [A] not justified in not disposing off the grounds raised with reference to the assessment of the income from house property of Rs.33,99,529/- without considering any other allowable deduction under the facts and in the circumstances of the appellant's case.*

7. *The learned CIT[A] not justified in not disposing off the grounds raised with reference to the assessment of the payments made for credit card bills of Rs.2,64,000/- as unexplained expenditure u/s.69C rws 115BBE of the Act under the facts and in the circumstances of the appellant's case.*

8. *The learned CIT [A] not justified in not disposing off the grounds raised with reference to making of addition to income in respect of payment made for credit card bills of Rs.2,64,000/- (Sl.No.6) and Cash Deposit of Rs.5,33,41,000/- (Sl.No.6) when there is sufficient gross income in the hands of the appellant to justify such payments/cash/deposit and also sufficient source[s] of funds to explain the same under the facts and in the circumstances of the appellant's case.*

9. *Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies himself liable to be charged to interest u/s. 234-A and 234-B of the Act, which under the facts and in the circumstances of the appellant's case deserves to be cancelled.*

*10. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs."*

**3.** At the time of hearing, the ld. A.R. filed a paper book to establish that the assessee had suffered several hurdles and also enclosed details of the surgery undergone by her husband and the treatment meted out to her mother-in-law Smt. Jayalakshmi and prayed one more opportunity to the assessee to appear before the authorities.

**4.** The Id. D.R. relied on the orders of lower authorities and prayed to dismiss the appeal.

**5.** We heard the arguments on both sides and perused the materials available on record. As seen from the paper book filed by the assessee, it is a fact that the Vysya Co-operative Bank Ltd., Indo Star Capital Finance Ltd. and from Tumkur Veerasaiva Co-operative Bank Ltd had initiated recovery proceedings against her and her husband by attaching their properties and put them for auction sales. The copy of attachment notice issued by the above said banks would show that the claim made by the assessee is a genuine one for non-appearing before the AO as well as before the Id. CIT(A). Further, the assessee's husband also undergone a major heart surgery for which the proofs were also filed in the paper book. Similarly, the assessee's mother-in-law also had taken treatment for Lumbago disease as evidenced from the certificate given by the Doctor.

**5.1** All the above said proceedings would definitely give mental agony to the assessee and therefore, the assessee has a reasonable cause for not appearing before AO as well as before Id. CIT(A) and produced the documents in support of her arguments. We also consider the submissions made by the Id. A.R. that if one more opportunity is granted, they will appear before the AO and demonstrate before AO that the additions made are unwarranted. In view of the above said peculiar facts and circumstances and agony faced by the assessee, we feel that one more opportunity may be granted to the assessee to appear before the AO along with all the relevant documents in support of her claim. We also make it clear that if the assessee does not respond to the notice issued by the AO, it is open to the AO to pass orders in accordance with law. We also make it clear that before passing final order, the AO will give sufficient opportunity of being heard to the assessee. With the above directions we set aside the orders of the authorities below and remit the issue to the AO for passing fresh orders in accordance with law.

**6.** In the result, all the appeals of the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 30<sup>th</sup> Aug, 2024

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**SD/-**  
**(Soundararajan K.)**  
**Judicial Member**

Bangalore,  
Dated 30<sup>th</sup> Aug, 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.**