

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1660/Bang/2024
Assessment Year: 2017-18

Mrs. Sajeena Ibrahim Kaleel L/R of Late Mohammed Yahya Mogral Chootaravalap D.No.20-7-433, Shanthi Mahal Hamilton Complex Near D.C. Office Mangaluru 575 001 PAN NO : AAHPY2290H	Vs.	ITO Ward-1(1) Mangaluru
APPELLANT		RESPONDENT

Appellant by	:	Smt. Sunaiana Bhatia, A.R.
Respondent by	:	Shri Ganesh R Gale, Standing counsel for department

Date of Hearing	:	07.01.2025
Date of Pronouncement	:	09.01.2025

O R D E R

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

Present appeal of the assessee is arising from the order of Id. CIT(A) dated 27.3.2024 and relates to assessment year 2017-18 having DIN & Order No.ITBA/NFAC/S/250/2023-24/1063453695(1).

2. There is a delay of 93 days in filing the appeal for which the counsel of the assessee has drawn the attention of the bench towards condonation application duly supported with affidavit filed in support of the same. It is the contention of the assessee that the assessee expired on 8.1.2023 and the Id. CIT(A) passed the order on 27.3.2024 i.e. much after the death of the present assessee. The counsel for the

assessee pointed out that the order of ld. CIT(A) has been sent to the deceased email, which was not accessed by the legal heir of the assessee and they came to know about the order only when the department pursued for recovery.

3. The ld. D.R. strongly opposed the contention of the assessee.

4. After hearing both the parties, we observe that there is an ordinate delay of 93 days in this case. We are of the view that the circumstances as narrated by the counsel for the assessee constitute reasonable cause and hence, we condone the delay happened in filing the appeal before us.

5. Brief facts of the case as coming out from the orders of authorities below are that the assessee is an individual and has filed its return of income on 7.12.2018 declaring an income of Rs.2,76,680/-. Thereafter, the case of the assessee was selected for scrutiny on the ground that substantial cash was deposited by the assessee during demonetization period. The ld. AO during the course of assessment proceedings issued questionnaire to the assessee, asking the details of the source of cash deposited by the assessee in its Allahabad Bank, Mangalore. The assessee in response to the questionnaire filed its reply. However, the AO, dissatisfied with the reply of the assessee added the entire deposits of cash u/s 69A of the Income Tax Act, 1961 (in short "The Act").

6. Aggrieved with the order of AO, the assessee preferred appeal before the ld. CIT(A) on 11.3.2020. However, no one appeared before the ld. CIT(A), as the assessee was seriously ill. Accordingly, the ld. CIT(A), dismissed the appeal of the assessee ex-parte without dealing with the merits of the case.

7. Now the assessee has come up in appeal before us. At the outset, ld. Counsel for the assessee prayed that matter may kindly be restored to the file of ld. CIT(A) because the assessee was expired during the pendency of appeal before the CIT(A).

8. Ld. D.R. relied upon the orders of authorities below.

9. We have heard the rival submissions and perused the materials available on record. We observe that in this case, the assessee expired on 8.1.2023, as evident from the death certificate annexed with the appeal memo. The order of ld. CIT(A) is of date 27.3.2024 which means when the proceedings before the ld. CIT(A) were pending, the assessee has already expired. Therefore, in the interest of justice and fair play, we remit the matter back to the file of ld. CIT(A) for fresh adjudication. The legal heir of the assessee would appear before the ld. CIT(A) and file the written submission along with documentary evidences in support of their claim. And the Ld CIT(A) will decide the matter afresh in accordance with law. Needless to say, that ld. CIT(A) would grant proper and meaningful opportunity to the legal heir of the assessee before passing any order.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 9th Jan, 2025

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated 9th Jan, 2025.
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.**