

**IN INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE**

**BEFORE SHRI. LAXMI PRASAD SAHU, ACCOUNTANT MEMBER  
AND SHRI. PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.2404/Bang/2024
Assessment Year : 2012-13

Shri. Sandeep Vimalchand Gadiya, Flat No.401, Ashish Royale Apartment, 33, 6 <sup>th</sup> Cross, BSK 1 Stage, II Block Srinagar, Bangalore – 560 050. <b>PAN :AFXPG 4989 G</b>	Vs.	ITO, Ward –5(2)(5), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri. Chaitanya A. V. Mudrabettu, Advocate
Revenue by	:	Shri. Subramanian S, JCIT(DR)(ITAT), Bangalore.

Date of hearing	:	23.01.2025
Date of Pronouncement	:	31.01.2025

**ORDER**

***Per Laxmi Prasad Sahu, Accountant Member :***

This appeal filed by the assessee against the Order passed by the National Faceless Appeal Centre (NFAC), vide DIN and Order No.ITBA/APL/S/250/2024-25/1070643328(1) dated 26.11.2024, on the following grounds of appeal:

1. The order of assessment passed by the learned assessing officer and CIT(A)'s order in so far as it is against the Appellant, is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.
2. The appellant denies himself liable to be taxed on a total income of Rs.1,37,99,900/- as assessed by the learned assessing officer as against the return income of Rs.2,80,590/- under the facts and circumstances of the case of the appellant.
3. The Assessing Officer and Id CIT(A) were failed to consider that the initiation of proceeding u/s.147 is bad and untenable under the eye of law in so far as non production of reasons recorded for reopening of assessment under the facts and circumstances of the case.
4. The Assessing Officer failed to consider that the reasons recorded for reopening of assessment is not a reasons to believe but it is a non application of judicious mind by assessing officer, which is not permissible under the eye of law. Therefore, the order of re-assessment is bad in law under the facts and circumstances of the case
5. It is submitted that cash deposit of Rs.1,32,47,900/- is cash received on sale of hand loom sarees. The sales is declared to the Commercial Tax

Department by virtue of monthly return-VAT 100 under the facts and circumstances of the case.

6. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.
  7. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed and appropriate relief may be granted in the interest of justice and equity.
2. Briefly stated, the facts of the case are that, as per the information received there was substantial cash deposit in the Financial Year 2011-12 in the

assessee's bank account and it was also found that the assessee has not filed return of income. Accordingly, notice under section 148 of the Act, dated 28.03.2019, was issued and served to the assessee and thereafter several opportunities were granted to the assessee and other statutory notices were also issued to the assessee but there was no compliance from the assessee side. Accordingly, the AO made addition to the entire cash deposits under section 69A of the Act for want of explanation and further the AO noted in Form 26AS under the TAN BLRRO5871 F, there is a payment of Rs.5,52,000/- and TDS is deducted under section 194C of the Act of Rs.5,520/- and assessee has not filed return of income. Therefore, the entire receipt shown in Form 26AS was treated as profit under the head "Profit and Gains of Business or Profession". Accordingly, the assessment was completed on 26.11.2024. Assessee filed appeal before the CIT(A) on 04.02.2020 with a delay. However, the learned CIT(A) has condoned the delay and granted various opportunities to the assessee which is clear from para 4.1 of the CIT(A)'s Order in spite of the assessee did not comply the notices, therefore, he dismissed the appeal of the assessee without going into merits of the case for want of submission from assessee's side.

3. Aggrieved from the above Order, assessee filed appeal before the Tribunal. The learned Counsel for the assessee submitted that the assessee is an individual and is proprietor of Kavita Agency dealing in Handloom Sarees, buying from Surat and also had contract receipts which has been declared in Income Tax returns filed on 20.03.2015 with acknowledgement No.000511. However, the AO has wrongly noted that the assessee has not filed return of income and further submitted that the assessee is in the business of Handloom Sarees and sale of saree is only for cash transactions. Assessee has declared sales and purchase of saree to the commercial tax department by virtue of VAT 100 (monthly return) and the details are lying with the assessee. He submitted that the notices sent by the Revenue authorities on the email provided were

never seen by the assessee and there was no intention to disregard the notice issued by both the revenue authorities. The learned Counsel for the assessee undertook that if a chance is given to the assessee, he shall comply with all the notices and provided new email ID which is [S8123909999@gmail.com](mailto:S8123909999@gmail.com).

4. Learned DR relied on the Order of the AO and submitted that during the course of proceedings before both the authorities below in spite of giving several opportunities assessee did not respond to the notices. As per the submission made by the assessee, the return filed on 20.03.2015 which is belated return and objected for giving further chances to the assessee.

5. Considering the rival submissions, we noted that during the course of reassessment proceedings, assessee has not responded to the notices issued by the AO as well as the notices issued by the CIT(A) and submitted by the learned Counsel for the assessee that the notices sent on the email provided was never seen by the assessee and the learned Counsel for the assessee has provided new email ID. Considering the facts and circumstances of the case and in the interest of justice, we are remitting the issue back to the file of the AO for denovo consideration subject to cost of Rs.25,000/-. Assessee has to pay challan under the head "other receipts miscellaneous code 0075" and submit the proof of payment to the AO. The AO is directed to provide reasonable opportunity of being heard to the assessee and notice should be sent on the above email provided by the Id. AR. The assessee has to produce necessary documents as required by the Revenue for speedy disposal of the appeal.

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

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

Sd/-

**(PRAKASH CHAND YADAV)**  
**Judicial Member**

Sd/-

**(LAXMI PRASAD SAHU)**  
**Accountant Member**

Bangalore,  
Dated : 31.01.2025.  
/NS/\*

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.