

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : (Bangalore)**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA Nos. 2300 & 2301/Bang/2024
Assessment year: 2018-19

Sri Narayanappa Muthuraj, No.51, Aarudi Enterprises, 1 <sup>st</sup> Main, 2 <sup>nd</sup> Cross, Narasimhaihanapalya, Magadi Main Road, Bengaluru – 560 091. <b>PAN: CCJPM 2157F</b>	Vs.	The Income Tax Officer, Ward 2(1)(3), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri Tatakrisna, Advocate
Respondent by	:	Shri V. Parithivel, Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	08.04.2025
Date of Pronouncement	:	30.04.2025

**ORDER**

*Per Prashant Maharishi, Vice President*

1. Sri Narayanappa Muthuraj (the assessee/appellant) has filed ITA Nos. 2300/Bang/2024 for the assessment year 2018-19 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 15.7.2024 wherein the appeal filed by the

assessee against the assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [the Act] dated 12.5.2021 by the National e-assessment Centre, Delhi was partly allowed.

2. The assessee aggrieved with that has preferred the appeal raising the following grounds of appeal: -

- “1. The appellant denies himself liable to be taxed on disallowance of Rs.70,60,473/- as assessed by the NFAC as against the income of Rs.4,97,210/- under the facts and circumstances of the case of the appellant.
2. The impugned exparte order passed by NFAC is illegal, hasty, imaginary and without basis of sufficient material and the same is liable to be set aside.
3. The learned assessing officer erred in presuming the genuine purchases as unexplained expenses u/s.69C of the Act and holding the same as income of the Appellant under the facts and circumstances of the case.
4. The Assessing Officer and NFAC has erred in holding Rs.70,60,473/- as income of the Appellant only on suspicion, surmise and out of the guesswork since no effective enquiries were caused with the information said to have been provided by other agency whose identity was not provided for defense of the appellant to meet the principles of natural justice.
5. The National e Assessment Centre, Dehi has erred in charging the tax u/s.115BBE of the Act which is not applicable to 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 view of the above and the other grounds that may be urged at time of hearing of the appeal, your Appellant prays that the appeal may be allowed in the interest of equity and justice.”

3. ITA No.2301/Bang/2024 is filed by the assessee for the same assessment year against the appellate order passed by the NFAC wherein the appeal filed by the assessee against the penalty order passed u/s. 271AAC(1) of the Act dated 4.8.2021 passed by the National Faceless Assessment Centre, Delhi was dismissed. Therefore, the assessee has raised the following grounds of appeal: -

- “ 1. The penalty order passed u/s.271AAC(1) of the Act dated 04.08.2021 and confirmed by the NFAC is opposed to law, facts and circumstances of the case.
2. The impugned exparte order passed by NFAC is illegal, hasty, imaginary and without basis of sufficient material and the same is liable to be set aside.
3. The Assessing officer has erred in imposing the penalty of Rs.4,23,628/- for the alleged addition of Rs.70,60,473/- made u/s.69A of the Act without appreciating the fact that no such addition was made in the Assessment Order u/s.69A of the Act.
4. The NaFC has erred in imposing the penalty prematurely without appreciating the fact that the addition made has not reached finality as its survival in the Appellate Proceedings is not finally adjudicated.
5. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.
6. In view of the above and the other grounds that may be urged at the time of hearing of the appeal, your Appellant prays that the appeal may be allowed in the interest of equity and justice.”

4. Briefly state the facts of the case show that assessee is an individual carrying on a proprietary business under the name and style of Aarudi Enterprises trading in waste paper and scrap. The assessee filed his return of income declaring total income of Rs.4,97,210 which was

selected for scrutiny. During the year assessee was asked to justify the purchases from K.K. Enterprises & Anjali Enterprises amounting to Rs.66,78,696 and Rs.3,81,777 respectively amounting to Rs.70,70,473. The assessee submitted the ledger, purchase bill and e-way bill in respect of purchases from Anjali Enterprises, however in respect of purchases from K.K. Enterprises, only ledger extract and purchase bills were submitted. In respect of e-way bills provided from Anjali Enterprises, no details of vehicle no. & name was provided. Further despite 3 purchases from Anjali Enterprises on different dates, the transportation bill is only on one date. Assessee also did not maintain the stock register. The AO also issued notices u/s. 133(6) on 31.3.2019 to these 2 parties which were served on them, but no details are received. Therefore, the Id. AO issued a show cause notice for making an addition u/s. 69C of the Act. The assessee submitted that material purchases from these 2 parties are sold in turn to other private limited company details of which are available. The Id. AO rejected the contention of the assessee and held the purchases of Rs.70,60,473 as non-genuine and passed assessment order on 12.5.2021 determining total income of assessee at Rs.75,57,683.

5. The assessee aggrieved with the same preferred appeal before the Id. CIT(Appeals). The Id. CIT(A) issued 5 notices through e-mail, but the assessee did not respond to any of the same and thereafter the Id. CIT(A) proceeded to decide the issue on the merits of the case and confirming the addition of Rs.70,60,473 granting relief to the assessee by confirming the addition under the head 'profits & gains of the

business' and not as unexplained expenditure u/s. 69C r.w.s. 115BBE of the Act.

6. The assessee aggrieved with the same is in appeal before us.
7. The Id. AR, Mr. Tatakrisna, Advocate, submitted that the NFAC, Delhi has passed ex parte order as the notices were not seen by the assessee because the assessee is not techno savvy and therefore submitted that in the interest of justice, an opportunity of hearing should have been granted by the Id. CIT(Appeals) by issuing notices to the asse.
8. The Id. DR vehemently supported the order of the Id. CIT(Appeals) and stated that in Form 35, the assessee himself stated that notices are to be received by him through email and now he is saying that assessee is not techno savvy is contradictory. He submits that assessee has been given 5 opportunities through email which were not responded to by the assessee and therefore no fault can be found with the appellate order. He submits that even otherwise on merits, the assessee has nothing to say.
9. We have carefully considered the rival contentions and perused the order of the Id. lower authorities. It is an admitted fact that in Form 35 assessee himself stated that notices are required to be issued to him through email. The Id. CIT(Appeals) issued 5 notices through email which were not responded to by the assessee. Now before us, it is submitted that assessee is not techno savvy and therefore he missed the

notices issued through email. We find that the stand of the assessee is contradictory. However, the order passed by the Id. CIT(Appeals) is that the assessee is not heard. Whether the notices are sent by email or physically, it is mandatory that assessee must be heard. As in the present case, assessee is not at all heard, despite notices being sent through email as requested by the assessee, in the interest of justice, heaven would not fall, if one more opportunity of hearing is granted to the assessee to represent his case. Therefore, we restore the appeal of the assessee back to the file of the Id. CIT(Appeals) with a direction to issue one more notice through email to the assessee and assessee is directed not to miss this email this time and respond to that by submitting whatever details and explanation is called for. The Id. CIT(Appeals) after considering the explanation of the assessee may decide the issue on merits of the case in accordance with law.

10. Thus, ITA No. 2300/Bang/2024 is allowed for statistical purposes with the above directions.
11. ITA No. 2300/Bang/2024 is an appeal against the penalty order passed on the impugned assessment order. Against the penalty order when the appeal was preferred, notices were issued on five occasions to the assessee through email which remained unresponded. As the quantum appeal is restored back to the file of Id. CIT(Appeals), in the interest of justice, we also restore the present appeal to the file of the Id. CIT(Appeals) with similar directions which were given in the quantum

appeal. Thus ITA No. 2300/Bang/2024 is also allowed for statistical purposes.

12. In the result, both the appeals by the assessee are allowed for statistical purposes.

Pronounced in the open court on this 30<sup>th</sup> day of April, 2025.

Sd/-

Sd/-

( SOUNDARARAJAN K. )  
JUDICIAL MEMBER

( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,  
Dated, the 30<sup>th</sup> April 2025.

*/Desai S Murthy /*

Copy to:

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

By order

Assistant Registrar  
ITAT, Bengaluru (Bangalore).