

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

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

S.P. No. 77/Bang/2024 (in ITA No. 2444/Bang/2024) & ITA No. 2444/Bang/2024 Assessment Year : 2017-18

Shri Muthu Dhanashekar, No. J-28, Annapoorna Service Station, Mysore Mangalore Highway, Hinakal, Mysuru – 570 018. PAN: AFVPD7619C	Vs.	The Income Tax Officer, Ward – 1(1), Mysore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Ankur Pai, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	07-04-2025
Date of Pronouncement	:	30-04-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 27/03/2024 in respect of the A.Y. 2017-18.

2. The assessee is a dealer in petroleum products and filed his return of income on 09/02/2018. Thereafter the case of the assessee was selected for complete scrutiny under CASS for the reason that large value of cash deposits were made during the demonetisation period. The AO issued

various notices u/s. 142(1) and 143(2) for which the assessee furnished the documents. The AO found that the documents furnished by the assessee relates to the assessment year 2016-17 and based on the data available, treated 30% of the cash deposits as unexplained cash credits u/s. 68 of the Act. As against the said order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) had dismissed the appeal on the ground that the assessee had not submitted any explanations in response to the several notices issued. As against the said ex-parte order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

3. The present appeal has been filed before this Tribunal with a delay of 205 days and in support of the said delay, the assessee filed an affidavit to the effect that the tax practitioner Mr S. Ravindran who was engaged to appear before the Ld.CIT(A) was died on 03/05/2021 and the said tax practitioner's death was known to the assessee only in August 2021. Thereafter the assessee made efforts to find out the result of the appeal. But unfortunately, the assessee came to know about the ex-parte order of the Ld.CIT(A) when the department had issued a demand notice on 25/11/2024. The assessee further submitted that he was not conversant with the operation of the e-portal and therefore the appeal order served through the e-filing portal was not known to the assessee and also because of the demise of the tax practitioner, the assessee could not be able to file the appeal before this Tribunal within the stipulated period. The assessee therefore submitted that the delay is not wilful and prayed that the said delay may be condoned in order to decide the appeal on merits.

4. We have perused the affidavit in support of the said delay and also the documents advanced by the Ld.AR and we are satisfied with the reasons given by the assessee and condone the said delay of 205 days in filing this present appeal before this Tribunal.

5. Now we will take up the main appeal for adjudication. At the time of hearing, the Ld.AR submitted that because of the sudden demise of the tax practitioner on 03/05/2021, the assessee could not be able to follow up the matter. The Ld.AR further submitted that only when the assessee had received a demand notice from the department on 25/11/2024, the assessee went to the office of the tax practitioner and at that time only, the assessee came to know that the appeal has been disposed off on the ground that the assessee had not filed their written submissions to the various notices issued by the Ld.CIT(A). The Ld.AR further submitted that the assessee was not conversant in operating the system and therefore he was not able to view the portal in order to find out the fate of the appeal filed by the assessee. Therefore the Ld.AR submitted that the non-appearance by the assessee before the Ld.CIT(A) is not because of his mistake, but because of the demise of the tax practitioner who has handled the appeal before the Ld.CIT(A).

6. The Ld.DR submitted that the assessee had not responded to the show cause notice issued by the AO as well as to the notices issued by the Ld.CIT(A) and therefore the assessee is not eligible for any leniency and prayed to dismiss the appeal filed by the assessee.

7. We have heard the arguments of both sides and perused the materials available on record.

8. It is a fact that the assessee's tax practitioner Mr. S. Ravindran was expired on 03/05/2021 whereas the Ld.CIT(A) had issued several notices on four occasions after the demise of the practitioner and therefore we have satisfied that the assessee has valid reasons for not appearing before the Ld.CIT(A). In such circumstances, we are inclined to set aside the order of the Ld.CIT(A) and remit the issue to its file to decide the issue afresh after hearing the assessee.

9. Since the main appeal is being disposed of, the stay petition filed by the assessee is dismissed as infructuous.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes and the stay petition filed by the assessee is dismissed as infructuous.

Order pronounced in the open court on 30th April, 2025.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 30th April, 2025.
/MS /

Copy to:

- | | |
|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore