

**IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH, BANGALORE**

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER

ITA No.399/Bang/2024
Assessment Year: 2010-11

Bachu Rama Krishnamurthy, SLN Steels and Jewellers, NH 206, BH Road, Gubbi Town, Tumkur – 572 216. PAN – AFKPK 4345 K	Vs.	The Income Tax Officer, Ward – 2, Tumkur. .
APPELLANT		RESPONDENT

Assessee by	:	Shri Kupendra Setty, CA
Revenue by	:	Shri Ganesh R Ghale, Advoce – Stnading Counsel for Dept.

Date of hearing	:	05.03.2025
Date of Pronouncement	:	28.05.2025

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi dated 10/01/2024 in DIN No. ITBA/NFAC/S/250/2023-24/1059581002(1) for the assessment year 2010-11.

2. The assessee has raised grounds Nos. 1 to 6 specifically challenging the validity of the assessment framed under section 147 of the Act.

3. The brief facts, as gathered from the records, are that the assessee was subjected to a survey under section 133A of the Act on 19.03.2012. Based on the findings of this survey, the AO recorded reasons on 05.09.2013, stating that cash deposits to the tune of ₹32,00,000 were made in the bank account of the assessee, which had allegedly escaped assessment. Consequently, proceedings under section 147 were initiated by issuing a notice under section 148 of the Act.

4. The learned Authorised Representative (AR) of the assessee has strongly challenged the validity of the reopening. It has been submitted that the assessee had filed the original return of income on 29.01.2011 under section 139 of the Act, and the said return had disclosed the impugned bank account where the alleged cash deposits were made. According to the learned AR, no tangible material was available with the Revenue to suggest that the cash deposits represented income that had escaped assessment.

5. Furthermore, it was pointed out that the reasons recorded for reopening did not refer to any specific document or evidence found during the course of the survey that could substantiate the claim of escapement of income. Thus, in the absence of such tangible material, the proceedings initiated under section 147 of the Act are bad in law and liable to be quashed.

6. On the other hand, the learned Departmental Representative (DR) submitted that the assessee had failed to satisfactorily explain the source of the cash deposits in the bank account. Hence, the initiation of proceedings under section 147 was justified. The learned DR placed

reliance on the orders of the lower authorities and vehemently argued in their support.

7. I have carefully heard the rival submissions and perused the materials available on record. On perusal of the reasons recorded by the AO, I find that there is no mention — not even a whisper — indicating that the impugned bank account, where the cash deposits were made, was not disclosed in the return of income filed by the assessee under section 139 of the Act which was filed on 29 January 2011. In fact, the undisputed position is that the bank account was duly disclosed.

7.1 It is well settled in law that for valid assumption of jurisdiction under section 147 of the Act, there must be tangible material coming into the possession of the AO after the completion of the original assessment (or return processing) which leads the AO to believe that income has escaped assessment. Mere reappraisal or review of the same material already on record does not satisfy the jurisdictional requirement.

7.2 In the present case, since the bank account and its details were already disclosed in the return, and no fresh or tangible material has been brought on record by the Revenue to demonstrate escapement of income, I hold that the reopening of the assessment was without valid jurisdiction. Consequently, the assessment framed under section 143(3) read with section 147 of the Act is bad in law and deserves to be quashed. Accordingly, I allow the ground of appeal of the assessee.

7.3 As the assessee succeeds on the technical ground, I do not find any reason to adjudicate the issue raised by the assessee on merit of the case. As such, the issues raised by the assessee on merit stand dismissed as infructuous.

8. In the result, the appeal filed by the assessee stands partly allowed.

Order pronounced in court on 28th day of May, 2025

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 28th May, 2025
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore