

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

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

<b>IT(IT)A No. 2068/Bang/2024</b>
<b>Assessment Year : 2019-20</b>

Shri Gaurav Banerjee, No. 2847, 4 <sup>th</sup> A Main, 15 <sup>th</sup> Cross, Banashankari II Stage, Bangalore – 560 070. <b>PAN: AICPB6457E</b>	<b>Vs.</b>	The Income Tax Officer, Ward Intl. Taxation 1(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Prasanna Urla, Advocate
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	08-04-2025
Date of Pronouncement	:	29-05-2025

**ORDER**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER**

This is an appeal filed by the assessee challenging the order of the ITO, Ward Intl. Taxation 1(1), Bangalore made u/s. 147 r.w.s. 144 of the Act on 09/10/2024 in respect of A.Y. 2019-20 in which the ITO had made the addition u/s. 69 of the Act since the assessee had not responded to any of the notices issued to him and also not filed his return of income.

**2.** The AO also added the interest income u/s. 57 of the Act. Before passing the said order, the assessee being a non-resident Indian, a draft assessment order u/s. 144C(1) of the Act was issued on 29/12/2023. The

assessee also filed his objections in form 35A of the Act and also enclosed the detailed submissions and the supporting documents by way of paper book. The Ld.DRP while considering his objections had observed that the assessee had not filed the said additional evidences by way of a separate application as per the proviso to sub-rule (3)(b) of Rule 4 of the DRP rules. The Ld.DRP further observed that they have no sufficient time to pursue the additional evidences by getting comments from the AO since the said documents were filed only 27 days before the deadline for the DRP to issue directions. Thereafter, the DRP considered the objections filed by the assessee and refused to take a different view since the assessee had not submitted any documents before the AO. The order by the AO pursuant to the said directions of the DRP is in challenge before this Tribunal.

**3.** At the time of hearing, the Ld.AR filed a paper book containing 17 documents and also filed an application to accept the additional evidences. The Ld.AR submitted that document Nos. 10 to 15 are the additional evidences not filed before the AO and prayed that the said documents may be admitted and the issue may be decided on merits.

**4.** The Ld.DR submitted that the order of the DRP as well as the AO are in order and requires no interference.

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

**6.** Admittedly, in this case, the assessee is a non-resident Indian and his case is that he is not having any taxable income in India and therefore he is not registered as an assessee under the provisions of the Act. Only after he received the show cause notice, he registered himself as an assessee and on viewing the portal, he came to know that several notices were sent but not received by him. In fact, he has also produced the screenshot of the income tax portal which shows that all the communications were sent through an email ID [gaurav@anz.com](mailto:gaurav@anz.com). We were told that the said email ID was the one

used when he was employed in the ANZ Grindlays Bank and therefore the submissions made by the assessee could not be brushed aside as totally incorrect. We have satisfied ourselves that the assessee had not wilfully omitted to file any objections to the notices as well as to the show cause notice.

**7.** On going through the documents we came to know that the assessee immediately, after receipt of the draft assessment order, filed his objections in form 35A before the DRP and also filed the additional evidences to show that the entire draft assessment order is not sustainable. But unfortunately, the assessee had not filed any application as per the proviso to sub-rule (3)(b) of Rule 4 of the DRP rules to entertain the same by the DRP. We do not think that the assessee should be penalised for technical violations. The DRP could have remitted the issue to the file of the AO for going through the documents submitted before the DRP and arrive a conclusion based on that, to do justice.

**8.** Even the other finding of the Ld.DRP that the documents were filed at the fag end of the time granted for passing the directions also not correct since the DRP to render justice, they could have remitted the issue to the AO for denovo consideration. We, therefore, find that the order of the Ld.DRP and consequently, the directions issued by the DRP by sustaining the draft assessment order made by the AO is not correct.

**9.** Before us, the assessee had filed an application to accept the said additional documents which were filed before the Ld.DRP under Rule 29 of the ITAT Rules, 1963. In the said application, the assessee submitted that the additional documents are received by him from the banks only after the DRP has issued directions. We find that the assessee has sufficient reasons for not furnishing the said documents before the Dispute Resolution Panel which was not filed before any of the authorities below and therefore we are allowing the said application filed by the assessee and accepted the said documents as additional documents. Since the AO has no opportunity to

consider the said documents, we are of the view that the matter requires reconsideration by the AO. The assessee is also permitted to furnish the documents in support of his claim that the addition could not be made u/s. 69 as well as u/s. 56 of the Act. We, therefore, set aside the order of the AO with the direction to consider the issue afresh and in accordance with law, after hearing the assessee.

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

Order pronounced in the open court on 29<sup>th</sup> May, 2025.

Sd/-  
(PRASHANT MAHARISHI)  
Vice – President

Sd/-  
(SOUNDARARAJAN K.)  
Judicial Member

Bangalore,  
Dated, the 29<sup>th</sup> May, 2025.  
/MS /

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

By order

Assistant Registrar,  
ITAT, Bangalore