

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.87/Bang/2025
Assessment year : 2017-18

Ramakrishna Kishor, Prop. Sapthagiri Enterprises, No.132, 1 st A Cross, Amruth Nagar, Sahakarnagar, Bengaluru – 560 092. PAN: BNBPK 6714Q	Vs.	The Income Tax Officer, Ward 6(3)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri C. Ramesh, CA
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel.

Date of hearing	:	03.06.2025
Date of Pronouncement	:	09.06.2025

ORDER

1. This appeal is filed by Ramakrishna Kishor (the assessee/appellant) for the assessment year 2017-18 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [ld. CIT(A)] dated 18.11.2024 wherein the appeal filed by the assessee against the assessment order passed u/s. 144 of the Income-tax Act, 1961 [the Act] dated 16.12.2019 by the ITO, Ward 6(3)(2), Bengaluru [ld. AO] was dismissed. The dismissal of the appeal was on account that assessee

was given several opportunities, but assessee did not make any submission and sought adjournment for 15 days. Therefore he applying the decision of the Coordinate Bench in 38 ITD 320 dismissed the appeal of the assessee for non-prosecution.

2. The assessee is in appeal before us raising the following grounds of appeal:-

- “1. Learned CIT (A) was not dismissing the Appeal without giving sufficient opportunity to the Appellant for making submissions.
2. The Learned CIT (A) was not correct in not giving sufficient opportunity to the Appellant as the CIT (A) has not given hearing date after taking adjournment during December 2023, though the CIT (A) has passed an order after one year i.e. November 2024.
3. The A.O. was not correct in treating entire cash deposits of Rs..47,03,560/- as unexplained money, without doing telescoping of Bank Account Statement obtained from the respective Bankers.
4. The Appellant relies on the Grounds raised before CIT (A) in respect of merits of the Case and the same may be admitted.
5. The Appellant craves leave to add, to alter, to amend or to delete any of the grounds that may be urged at the time of hearing of the Appeal.

Wherefore on the above grounds and on such other grounds the Appellant prays the Appellate Authority to set aside the Assessment order and may pass such other as the Appellate Authority deems fit.”

3. The brief facts of the case show that assessee is an individual, who filed his return of income for Rs. 2,90,240. The case of assessee was taken up for limited scrutiny to examine the issue of cash deposits during the demonetisation period. According to the information

available, the assessee has deposited cash of Rs. 17,13,340 in his bank account with Yes Bank and Rs. 1,10,100 with HDFC Bank. The assessee was issued several notices, but same remained unresponded. From the analysis of the bank account obtained, it was found that assessee has deposited Rs.1,10,100 in cash during the demonetisation period, however for the whole year assessee has deposited Rs.10,63,800. Similarly in Yes Bank, though in demonetisation period assessee has deposited cash of Rs.4,65,920, but for the whole year amount of cash deposit is Rs.36,39,760.

4. According to the AO, considering the gross total income offered by the assessee in the return of income, the cash deposit in the bank account is disproportionate and therefore he made total addition of Rs. 47,03,560 being all cash deposits during the year in both the A/cs. The assessment order was passed on 6.12.2019 u/s. 144 of the Act.
5. The assessee preferred an appeal before the Id. CIT(A). Before the Id. CIT(A) though several opportunities were granted, on 22.12.2023 the assessee submitted written submissions and also sought an adjournment for 15 days. It was recorded by the Id. CIT(A) that assessee demands telescoping of the bank transactions to be given among various bank Accounts. The Id. CIT(A) rejected the same. He held that telescoping can be made only if both the banks are located in the same station and if there is proximity between the withdrawal and deposits in the bank accounts. He held that assessee has not submitted any documentary evidences and relying on the decision of Hon'ble Supreme Court in the

case of *CIT v. B.N. Bhattacharjee*, 10 CTR 354 (SC) and the Hon'ble Madhya Pradesh High Court judgment in the case of *Estate of Late Tukojirao Holkar v. CWT*, 223 IR 480 (MP) as well as decision of the Coordinate Bench in the case of *CIT v. Multiplan India Pvt. Ltd.*, 38 ITD 320, he dismissed the appeal filed by the assessee for want of prosecution.

6. The Id. AR has two-fold arguments. He submits that the addition made by the Id. AO of Rs.47,03,560 is beyond the scope of limited scrutiny as the case was selected for examination of cash deposit during the demonetisation period only which is Rs.5,76,020. Thus, addition could not have been exceeded this sum of Rs.5,76,020. The second argument is that assessee should have been granted credit for the amount of cash withdrawal from one bank and deposit in another bank and therefore at least double addition should not have been made.
7. Coming to the order of the Id. CIT(A), he submits that the CIT(A) should not have dismissed the appeal of the assessee for non-prosecution because assessee has made written submissions which should have been considered and the credit for withdrawal in cash should have been granted to the assessee to the extent of cash deposit. He otherwise submitted that the CIT(A) has to decide the appeal on the merits and does not have to authority to dispose of the appeal for non-prosecution.
8. The Id. DR vehemently supported the orders of Id. lower authorities.

9. We have carefully considered the rival contentions and perused the orders of Id. lower authorities. In this case, the return of income of assessee was picked up for examination of cash deposit during demonetisation period by issuing notice under limited scrutiny criteria. The assessee has deposited cash during the demonetisation as per the assessment order itself of Rs. 5,76,020. The Id. AO has made the total addition of Rs. 47,03,560 of cash deposit by the assessee during the whole year. The Id. AO did not have the mandate under limited scrutiny provision to make the addition of cash deposit during the whole year. He was mandated to examine only the cash deposit during the demonetisation period as compared to the return of income. Thus, he should have only made the addition of Rs. 5,76,020 and not of Rs.47,03,560. If he wanted to make the addition of cash deposit during whole year, he should have converted Limited scrutiny case in to complete scrutiny case after obtaining necessary approval. No such efforts were made. Thus, the order of the AO making the addition of Rs. 47,03,560/- is not sustainable as addition to the extent of only Rs.5,76,020 could have been made. Therefore addition to the extent of Rs.41,21,540 is devoid of any merit and deserves to be deleted, hence deleted.
10. Even on the balance sum of Rs.5,76,020, the assessee has made submission before the Id. CIT(A) that telescoping may be given to cash withdrawal and cash deposit. We find that the above explanation is available to the assessee, provided the Revenue does not have any evidence that cash deposits from the bank account has been utilized for

any other purpose. This was been raised by the assessee before the Id. CIT(A) and was rejected. Further the Id. CIT(A) has held that assessee does not want to prosecute this appeal, hence, same was dismissed. We find that the Id. CIT(A) has to decide the appeal on the merits of the case and does not have any authority to dismiss the appeal of the assessee for non-prosecution. Accordingly the order of Id. CIT(A) is not sustainable.

11. Further as the order passed by the Id. AO is also u/s. 144 of the Act, in the interest of justice, we restore the whole appeal to the file of Id. AO with a direction to the assessee to substantiate the explanation about the source of cash deposit during the demonetization period of Rs. 5,76,020. The Id. AO will examine the same and decide the issue to the extent of above sum only, after giving opportunity of hearing to the assessee.
12. Accordingly the appeal of the assessee is partly allowed.

Pronounced in the open court on this 9th day of June, 2025.

Sd/-
(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 9th June, 2025.

/Desai S Murthy /

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

Assistant Registrar
ITAT, Bangalore.