IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH : BANGALORE

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.329/Bang/2025
Assessment year : 2017-18

Smt. Gayathri Gopal Reddy, No.1640, 4th Main, 19th Cross, HSR Layout, Sector 7, Bangalore – 560 102. **PAN: BXZPG 4926J**	Vs.	The Income Tax Officer, Ward 4(3)(2), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri S.V. Ravishankar, Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Department.

Date of hearing	:	10.06.2025
Date of Pronouncement	:	18.06.2025

O R D E R

1. This appeal is filed by Smt. Gayathri Gopal Reddy (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 29.1.2025 wherein the appeal filed by the assessee against rectification order passed u/s. 154 of the Income-tax Act, 1961 [the Act] on 31.3.2024 by the ITO, Ward 4(3)(2), Bangalore [ld.AO] was dismissed for the reason that assessee did not respond to 4

notices issued by the ld. CIT(A), hence it was held that assessee is not interested in prosecuting the appeal.

2. The brief facts of the case show that assessee is an individual earning income from rentals and interest, filed her return of income on 22.6.2017 at a total income of Rs.7,93,970. The return was picked up for limited scrutiny to examine cash deposit during the demonetisation period. The assessment was completed u/s. 143(3) of the Act on 7.6.2019 at the returned income.

3. Subsequently notice u/s. 154 of the Act was issued to make an addition of Rs.10,48,500. It was stated that assessee has deposited cash of Rs.10,48,500 in bank account of Karnataka State Co-operative Bank during the demonetisation period which was not added to the income of the assessee. The claim of assessee that source of cash deposit is out of her rental income was not accepted. It was held that all the rent agreements were in the name of Mr. V.P. Srinivas Reddy and the tenants have stated that they have paid rent to Mr. V.P. Srinivas Reddy and not to the assessee. Further the PAN of the assessee was also obtained after demonetisation period. Accordingly the rectification order u/s. 154 of the Act was passed on 31.3.2024 along with addition of Rs.10,48,500. Aggrieved with the same, the assessee preferred appeal before the ld. CIT(A).

4. The ld. CIT(A) issued 4 notices for hearing, but the assessee did not respond to any of the notice and therefore the ld. CIT(A) relying on the decision of Hon'ble Supreme Court in the case of *CIT v. B N*

Bhattacharjee, 10 CTR 354, Hon'ble Madhya Pradesh High Court in the case of *Estate of Late Tukojirao Holkar v. CWT, 223 ITR 480* and the decision of the Delhi Bench of ITAT in the case of *Multiplan India (P) Ltd., 38 ITR 320*, dismissed the appeal of the assessee for want of prosecution. Accordingly the appellate order was passed on 29.1.2025.

5. The assessee, aggrieved with the appellate order, preferred appeal before us and filed a paperbook containing 40 pages.

6. The ld. AR first of all submitted that on merits of the case, assessee has a very strong case that 154 order made by the ld. AO is devoid of any merit. He submits that it is not a mistake apparent from the record resulted in to substantial addition to the income of assessee which could not have been the scope of provisions of section 154 of the Act. He submits that it is neither an arithmetical error nor a mistake. Even otherwise on the merits, he submits that assessee has offered rental income which was received by the assessee in cash and same is deposited in his bank account. Therefore, the source of fund is out of rental income which was kept by the assessee as cash on hand and deposited after the demonetisation. For that the reason that why assessee did not appear before the ld. CIT(A) on 4 different occasions, he referred to Form 35 and stated that the original email id for which notices were requested is 'talk2bharat.sr@gmail.com', but the ld. CIT(A) issued notices to a different email id i.e., 'raveendrasir@gmail.com'. Copies of the notices are placed at pages 36-38 of the PB. He submits that these notices are downloaded from

ITBA portal. Thus the notices were not received by the assessee at the email address given.

7. The ld. DR vehemently supported the orders of the ld. lower authorities. He submits that the notices were issued to the assessee, but the assessee did not respond before the first appellate authority and therefore the appeal of the assessee was dismissed for non-prosecution. He referred to the rectification order and submitted that there is no error in the order of the ld. AO, but rectified the original assessment for the reason that the amount deposited in cash during the demonetisation period was not added in the original assessment order.

8. I have carefully considered the rival contentions and perused the orders of ld. lower authorities. In this case, original assessment order was passed u/s. 143(3) of the Act at the returned income. The assessment was framed pursuant to selection of return of income for limited scrutiny for verification of the source of cash deposit by the assessee post-demonetisation. Thus in the original assessment order no addition was made. Subsequently notice u/s. 154 of the Act was issued wherein it was noted that a sum of Rs.10,48,500 deposited in the Karnataka State Co-op. Bank and therefore rectification order u/s. 154 was issued on 31.03.2024 wherein it has been stated that there is a mistake apparent from record that assessee has deposited cash amounting to Rs.10,48,500 in Bank account No.1033102010001154 of KSC Bank during the demonetisation period is not added. Assessee submitted that cash is deposited out of her rental income. To support the argument,

the assessee submitted copies of the rental agreements along with confirmation from the tenants of payment of rent in cash. The AO wanted to rectify the above order stating that rental agreements were in the name of Mr. V.P. Srinivas Reddy and not assessee and the PAN of the assessee is acquired after the demonetisation. Therefore, the explanation of the assessee is not correct which needs to be rectified. According to the provisions of section 154 of the Act, any mistake apparent from the record can be rectified u/s. 154 of the Act. If what is rectified is arrived at after a long drawn process of argument, examination, etc., cannot be said to be a mistake apparent from the record. Here, in original assessment proceedings , the ld. AO accepted the proposition that the above sum is deposited in the bank account of assessee out of rental income earned by the assessee in cash. The assessee submitted the rental agreements as well as confirmation of the tenants. Based on this, source of cash deposited of Rs.10,48,500 was accepted. Now the AO is rectifying the mistake that assessee has failed to show the source of cash deposit on the reason that rental agreements are entered by Mr. V.P. Srinivas Reddy and PAN is obtained by the assessee after the demonetisation period. I do not find that the above is a mistake apparent from the record which can be rectified u/s 154 of the act, because all these facts were available before the AO during the course of assessment proceedings and after verification ld AO did not make any addition by accepting the explanation. During the original assessment proceedings, the assessee submitted the complete details in the form of explanation by letter

dated 6.6.2019 coupled with confirmation of the tenants and rental agreements. Therefore I do not find that making an addition of Rs.10,48,500 rejecting the source of the cash deposit is a mistake apparent from the record. Therefore, I quash the rectification order passed by the ld. AO u/s. 154 of the Act passed by the ld. AO u/s. 154 of the Act .

9. The ld. CIT(A) has passed the appellate order not on the merits of the case, but holding that assessee did not respond to 4 notices issued by him, he held that assessee does not want to prosecute the appeal. The ld. CIT(A) is empowered to dispose of the appeal only on its merits. He is not empowered to dismiss the appeal of assessee for non-prosecution. Further, the notices sent by him are not at the email address stated by the assessee in Form 35, except on 1st occasion. All subsequent notices have been issued to a different email id, which I do not know, wherefrom he got information about. Therefore, assessee did not receive at least 3 notices. In absence of receipt of notices, naturally assessee could not respond. But despite that, the ld. CIT(A) should have decided the appeal on the merits and not for non-prosecution as one of the grounds of appeal raised before the ld. CIT(A) was against rectification order in accordance with law in absence of any mistake apparent from the record. The ld. CIT(A) even did not adjudicate the same. Therefore, in absence of any decision on merits of the case, when adequate information is available before him, the ld. CIT(A) is not correct in disposing of the appeal on the allegation

of non-prosecution. Therefore the order of the ld. CIT(A) is not sustainable, hence quashed.

10. In the result, the appeal of the assessee is allowed by quashing the rectification order passed by the ld. AO and also quashing the order of the ld. CIT(A) though not based on the merits of the case wherein the appeal of the assessee is disposed of for non-prosecution which is in violation of the provisions of section 251 of the Act.

11. Accordingly the appeal of the assessee is allowed.

Pronounced in the open court on this 18th day of June, 2025.

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 18th June, 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, Bangalore.