

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

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

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| ITA No.287/Bang/2025 |
| Assessment year : 2017-18 |

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| Ravikumar Laxman Shanbhag, Ravee & Company, 603, K B Road, Yellapur S.O. - 581 359. Yellapur Dist. Uttar Kannada. PAN: AEUPS 9056C | Vs. | The Income Tax Officer, Ward 1, Sirsi. |
| APPELLANT | | RESPONDENT |

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| Appellant by | : | Shri Vinay Kulkarni, CA |
| Respondent by | : | Shri Ganesh R Ghale, Standing Counsel for Revenue. |

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| Date of hearing | : | 10.06.2025 |
| Date of Pronouncement | : | 19.06.2025 |

ORDER

1. This appeal is filed by Ravikumar Laxman Shanbhag (the assessee/appellant) for the assessment year 2017-18 against the appellate order passed by the CIT(Appeals)-1, Mumbai [Id. CIT(A)] dated 7.1.2025 wherein the appeal filed by the assessee against the assessment order passed u/s. 143(3) of the Act dated 29.12.2019 by the ITO, Ward 1, Sirsi was dismissed for non-prosecution as the notices were issued on 3 occasions and assessee did not comply with the same.

2. The brief facts of the case show that assessee is an individual, proprietor of Ravee & Co., carrying on the business of betelnut merchant, filed his return of income on 3.11.2017 at a total income of Nil and the same was accepted u/s. 143(1) of the Act. Subsequently, the return was picked up for complete scrutiny to verify the cash deposits during the demonetisation period. Notice u/s. 143(2) was issued on 22.9.2018. The AO noted that assessee has deposited a sum of Rs.6 lakhs in OD A/c. 543 of Siri Urban Co-op. Bank Ltd. Despite notice calling for source of deposit, assessee failed to offer explanation regarding the nature and source of above amount so deposited. Therefore the ld. AO passed an assessment order u/s. 143(3) on 29.12.2019 making an addition of Rs.6 lakhs u/s. 68 r.w.s. 115BBE and taxing it @ 60%.
3. The assessee preferred appeal before the ld. CIT(A) wherein 3 notices were served on email, but the assessee did not comply with any of the notices and the ld. CIT(A) relying on the decision of Hon'ble Madhya Pradesh High Court and Hon'ble Supreme Court held that assessee does not want to prosecute the appeal and confirmed the addition on the merits also. The appeal of the assessee was thus dismissed.
4. On appeal before me, the ld. AR submitted written submissions, audited financial statements, bank OD account with Siri Urban Co-op. Bank Ltd. and cash book extract. All these are compiled in a paperbook of 22 pages. It is the claim of assessee that during the course of assessment proceedings, all requisite documents such as

statement of income, VAT returns, purchase & sales register was furnished before the AO and submitted that cash deposit of Rs.6 lakhs deposited in the OD account is part of the audited financial statements and therefore addition u/s. 68 of the Act is not correct. He also referred to the cash book of the assessee and stated that assessee has cash on hand of Rs.6,97,520 wherein Rs.1,50,000 was deposited on 10.11.2016. When assessee deposited Rs.1 lakh on 3.11.2016 it has an opening cash balance of Rs.5,96,066 and further when Rs.3,50,000 was deposited on 17.11.2016, he had the opening cash balance of Rs.4,96,066. Thus the amount of cash deposit in the bank OD account is part of the regular books of account of assessee and therefore the addition deserves to be quashed.

5. The reason for non-appearance before the Id. CIT(A) was stated that the email id and mobile no. mentioned in Form 35 belonged to erstwhile consultant who did not respond to the notices and therefore assessee was not aware of the notices issued.
6. On the merits, it was submitted that the addition is incorrectly confirmed by the Id. CIT(A) when all the information are available before the AO.
7. The Id. DR vehemently supported the order of the Id. lower authorities. It was submitted that the assessee did not respond to any of the notices before the Id. CIT(A) and accordingly the addition was confirmed.

8. We have carefully considered the rival contentions and perused the orders of Id. lower authorities. We find that the before the learned assessing officer the assessee submitted certain details however same are not considered an addition was made. When the appeal was filed for the learned CIT – A, notices through email percent to the assessee at same remained and responded and therefore the learned CIT – A in order wherein the appeal of the assessee was dismissed for non-prosecution. The learned CIT – A did not consider the merits of the case. It is the duty of the learned CIT – A to dispose of the appeal on the merits even if the assessee is not available to represent the same. He does not have any authority to dismiss the appeal of the assessee for non-prosecution. In view of this, we restore this appeal back to the file of the learned CIT – A with direction to the assessee to submit all necessary details before him, the learned CIT – A considered the submission made by the assessee and thereafter after giving an opportunity of hearing to the assessee, dispose of the appeal on its merit.
9. In the result appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 19th day of June, 2025.

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 19th 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.