

**IN THE INCOME TAX APPELLATE TRIBUNAL
SMC-'C' BENCH : BANGALORE**

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

ITA No. 2370/Bang/2024
Assessment Year : 2017-18

Shri Prakash Basappa Sankh Rep by L/H Rahul Prakash Sankh, Teacher, Govt. Kannada Boys School, S S Road Bijapur Bazar, P O Bijapur – 586 101. Karnataka. PAN: CDUPS8403A	Vs.	The Income Tax Officer, Ward – 1 & TPS, Bijapur.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Prathiba R, Advocate
Revenue by	:	Shri Ganesh R Gale, Standing Counsel for Dept.

Date of Hearing	:	16-04-2025
Date of Pronouncement	:	26-06-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 19/11/2024 in respect of the A.Y. 2017-18 and raised the following grounds:

10	GROUNDS OF APPEAL	Tax Effect relating to each Ground of appeal
1.	The Id. CIT(A) erred in confirming the ex-party passing in the manner which he did	General
2.	The Id. CIT(A) erred in confirming the addition of Rs. 6,31,000/- under section 69A of the Act on the ground that the cash deposits during the period of demonetization and not explained the source of cash deposit, without providing the opportunity to the Appellant.	
3.	The Id. CIT(A) ought to have appreciated that the appellant is not having taxable income, therefore no return has been filed but in response to notice u/s 142(1) of the Act the Appellant has filed return declaring the said amount and paid the taxes again said amount was added to total income and demanded tax payable at Rs. 6,98,025/-. The CIT(A) further ought to have appreciated that the legal heir of the Appellant has explained the source for the cash deposit and the same was not considered by the authorities. Thus, the addition confirmed u/s 69A of the Act is bad in law.	
4.	The Id. CIT(A) ought to have appreciated that the Appellant has earned through agricultural income shown at Rs.1,00,000/- which is the amount given by the farmer to whom the land is given to cultivate. Income from other sources of Rs.3,15,500/- which included the Honorarium received from various agriculturists to whom the he has shown the borewell points and to other persons also and which is not taxable u/s 69A of the Act when the source is explained and the said addition ought to be deleted.	
5.	The Id. CIT(A) further ought to have appreciated that the Appellant is not having taxable income, the cash deposits has been computed under section 69A of the Act and hence confirming additions	

	under section 69 of the Act and taxed u/s 115BBE of the Act merely on suspicion is bad in law	
6.	Without prejudice the addition is excessive arbitrary and unreasonable and liable to be reduced substantially.	General
7.	The learned assessing authority erred in levying the interest us 234 of the Act	General
8.	For these and other grounds that may urged at the time of hearing of the appeal the appellat prays that the appeal may be allowed.	----
	TOTAL TAX EFFECT	Rs. 6,98,025/-

2. The assessee filed his return of income in response to the notice issued u/s. 142(1) of the Act. Thereafter the return was accepted on 22/11/2019. Subsequently, based on the order passed u/s. 263 of the Act by the PCIT, Hubli, the assessment was taken up for further adjudication since the assessee had made a cash deposit of Rs. 6,34,500/-. The assessee contended that the said income is out of the agricultural activities and the savings made by him and his wife. In the meanwhile the assessee died. Since no evidences were furnished in support of their claim, the AO issued notices to the assessee for which the legal heir of the assessee replied and enclosed the copy of the death certificate of the assessee. Then the legal heir of the assessee filed his reply electronically and enclosed some documents in support of the income declared by his deceased father. The AO had not accepted the explanations offered by the legal heir of the deceased assessee and treated the said deposits as unexplained money u/s. 69A of the Act. The AO had made the assessment u/s. 144 r.w.s. 263 of the Act in the name of the deceased assessee. As against the said order of the AO, the assessee filed this appeal before the Ld.CIT(A). The assessee also explained the source of income earned by the assessee but the Ld.CIT(A) had not accepted the explanation offered by the assessee and dismissed the appeal.

3. As against the said order, the assessee is in appeal before this Tribunal.

4. At the time of hearing, the Ld.AR submitted that the assessee is earning income through agriculture and also earned income from various agriculturists to whom the assessee had identified the borewell points. The Ld.AR further submitted that the assessee also died after the order accepting the return was passed and therefore prayed to consider the documents filed before the authorities and grant the benefit.

5. The Ld.DR relied on the orders of the lower authorities and prayed to dismiss the appeal.

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

7. In this appeal, the total addition made by the AO is about Rs. 6,31,000/- being the income received by way of agricultural income and also income earned through the agriculturists for identifying the borewell points. Admittedly, the assessee also died and only the legal heirs are before us by disputing the said addition made by the AO u/s. 69A of the Act.

8. We have also perused the acknowledgement dated 28/04/2023 in which the assessee had attached the agricultural income proof and letters from persons for having paid the honorarium and the death certificate of the assessee. From the said attachments, we understand that the legal heir of the assessee had tried to explain the source for the income earned by his deceased father. By taking into consideration the fact that the assessee was no more and the cash deposited into the bank account are only the minimum amount and also considering the fact that the legal heir of the assessee had furnished some documents in support of the said claim, we are inclined to allow the appeal filed by the assessee. We also find that the

assessment order dated 31/03/2023 was made on the deceased assessee which in our view is also bad in law and therefore the assessment could also be interfered on this ground by setting aside the same.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 26th June, 2025.

Sd/-
(PRASHANT MAHARISHI)
Vice – President

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 26th June, 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