

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

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.270/Bang/2025
Assessment year: 2017-18

Mrs. Geethamma, W/o. Sri R. Krishnaiah, Siddeshwara Nilaya, Near Basanna Temple, Halkola, Shivamoga – 577 204. PAN: BTDPG 1917M	Vs.	The Income Tax Officer, Ward 2, Shivamoga.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sunaina Bhatia, Advocate.
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Revenue.

Date of hearing	:	09.06.2025
Date of Pronouncement	:	04.07.2025

ORDER

1. This appeal is filed by Mrs. Geethamma (the assessee/appellant) for the assessment year 2017-18 against the appellate order passed by the Addl. CIT(Appeals), Prayagraj [ld. CIT(A)] dated 30.12.2024 wherein the appeal filed by the assessee against the assessment order passed u/s. 144 of the Income-tax Act, 1961 [the Act] dated 15.12.2019 by the ITO, Ward 2, Shivamoga was dismissed for non-prosecution.
2. The assessee is aggrieved with the same and has preferred this appeal.

3. The main grievance of the assessee is that a sum of Rs.5,60,000 is added to total income of assessee being sum deposited in assessee's bank account with Canara Bank, APMC, Shivamogga, A/c. No.5126 u/s. 69A of the Act to be taxed u/s. 115BBE.
4. The brief facts show that assessee has not filed any return of income. It was found that in her Canara Bank A/c No.5126 with APMC, Shivamogga, she has deposited a sum of Rs.5,65,000 during the demonetisation period. Therefore notice u/s. 142(1) was issued on 12.3.2018. In response to that notice no return of income was filed. The AO obtained details from the Bank by issuing letter u/s. 133(6) of the Act and after that assessee was asked to file the reply. The assessee submitted that the amount deposited in her account is on account of sale of arecanut, coconut and maize as she is holding agricultural land of approx. 3.25 acres. To support her case, the RTC was also submitted. It was further stated that she is also running a Kirana shop having a turnover of Rs.8.36 lakhs and she has an income of Rs.83,815 in this year. It was therefore submitted that cash deposit in this bank account is having source of agricultural income as well as cash sales of Kirana shop. The Id. AO did not accept the explanation of the assessee and noted that assessee has deposited cash during the demonetisation period on 6 occasions in her above bank account totalling to Rs.5,65,000 which is unexplained money chargeable to tax u/s. 69A of the Act and tax payable according to section 115BBE of the Act. The total income of assessee was computed at Rs.6,50,870 by order u/s. 144 of the Act dated 15.12.2019.

5. Aggrieved with the same, assessee preferred appeal before the Id. CIT(A). The Id. CIT(A) noted that 4 opportunities were granted, however, assessee did not make any compliance and therefore he held that assessee is not interested in prosecuting this appeal and accordingly appeal was dismissed. He further confirmed the addition of Rs.5,65,000. Therefore appellate order was passed dismissing the appeal of the assessee both on merits and due to non-prosecution on 30.12.2024 by which the assessee is aggrieved and in appeal before me.
6. The Id. AR categorically stated that 4 notices issued to the assessee by the Id. CIT(A) did not reach the assessee and therefore it could not be complied with. It was stated that assessee is 60 years old and has bare minimum education upto 8th Std. On receipt of the assessment order, she sought assistance of one, Mr. Manjunath, to file the appeal, though mobile no. of assessee was provided, but an email-id of the assessee was created which was mentioned in Form 35. Subsequently the mobile no. of assessee was also changed and email-id was not accessible to the assessee. Therefore, perhaps, the notices issued to the assessee on that email-id could not reach the assessee. Therefore, the assessee could not appear before the Id. CIT(A). The assessee came to know about the order of the Id. CIT(A) on account of recovery notices of the AO. Therefore the Id. CIT(A) was not correct in disposing of the appeal for non-prosecution.
7. On the merits, it was submitted that the assessee has turnover of Kirana Shop of Rs.9 lakhs and income @ 8% is already taxed by the Id. AO

on presumptive basis @ Rs.83,815. The interest income earned by the assessee is also shown and therefore when the income under the presumptive taxation is filed, further addition of cash deposit, unless there is increase in turnover, could not be made of Rs.5,65,000.

8. The Id. DR vehemently supported the order of Id. CIT(A) and submitted that the Id. CIT(A) has not dismissed the appeal of assessee for mere non-prosecution, but has also decided the issue on the merits of the case.
9. I have carefully considered the rival contentions and perused the orders of the Id. lower authorities. The Id. CIT(A) has decided the appeal of the assessee for non-prosecution as well as on merits. For non-prosecution the Id. CIT(A) noted that 4 notices were issued to the assessee, but none of them were complied with. It is true that while filing Form 35 the mobile no. of assessee as well as email-id was also mentioned. The claim of assessee is that email-id was created by one Mr. Manjunath who was entrusted with filing of appeal. This email-id address was not accessed by the assessee. Even mobile no. of assessee subsequently got changed and therefore effectively assessee could not get any opportunity to represent her case before the Id. CIT(A). It was further stated that the source of cash deposit in the bank account is her income from Kirana shop as well as agricultural income. To support this, it was stated that the turnover of Kirana shop is approximately Rs.9 lakhs. This sum is not disputed by the AO and he taxed it on presumptive taxation basis. Further for the agricultural income the

assessee has given proof that she is holding agricultural land of Rs.3.24 lakhs by producing RTC. Therefore it cannot be said that assessee does not have any agricultural income.

10. Further on perusal of the order passed by the Id. AO, it is found that same was passed u/s. 144 of the Act. Before the AO also the assessee did not submit any information. Merely because assessee did not file return of income, despite the fact that she was not required to file the return, explanation of assessee was rejected. In view of the above facts and the Id. AO has also not considered the explanation of the assessee, I restore the matter back to the file of the Id. AO to decide the issue afresh whether a sum of Rs.5,65,000 is derived from agricultural income as well as from sale of Kirana shop or unexplained income chargeable to tax u/s 69 of The Act, after providing assessee an opportunity of hearing.
11. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 4th day of July, 2025.

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 4th July 2025.

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Copy to:

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

By order

Assistant Registrar
ITAT, Bangalore.