

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

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.921/Bang/2025
Assessment year: 2020-21

Ningaiah Siddu, No.429, Sivarathreeswara Nagar, Bannimantap, “B” Extension, Mysore – 571 015. <b>PAN: ABCPN 4752B</b>	Vs.	The Deputy Commissioner of Income Tax Circle 1(1) & TPS, Mysore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Ravishankar, Advocate
Respondent by	:	Shri Subramanian, Jt.CIT (DR)(ITAT), Bengaluru.

Date of hearing	:	01.07.2025
Date of Pronouncement	:	23.07.2025

**ORDER**

*Per Prashant Maharishi, Vice President*

1. This appeal is filed by Ningaiah Siddu (the assessee/appellant) for the assessment year 2020-21 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [ld. CIT(A)] dated 24.2.2025 wherein the appeal filed by the assessee against the assessment order passed u/s. 144 r.w.s. 144B of the Income Tax Act, 1961 [the Act] by the Assessment Unit of the Income Tax Department

dated 5.9.2022 was dismissed without condoning the delay of 249 days. Therefore, assessee is aggrieved and is in appeal before us.

2. The brief facts of the case show that assessee is an individual, filed his return of income on 31.3.2021 declaring total income of Rs.43,01,340. The case was selected for complete scrutiny. Necessary notices were issued. The Id. AO issued 3 notices, but none of them were complied with and therefore show cause notice was also issued which resulted in best judgment assessment u/s. 144 of the Act.
3. As per the return of income filed by the assessee, the main source of income is interest received from Bank and contract receipt. Assessee disclosed contract receipt of Rs.3,47,83,048 and claimed deduction u/s. 57 of Rs.3,16,52,500. The assessee was asked to produce documentary evidences which the assessee failed to prove and therefore the claim of deduction of Rs.3,16,52,500 u/s. 57 was not allowed treating it as unexplained expenditure u/s. 69C of the Act. The total income of the assessee was assessed at Rs.3,59,53,840 by order dated 5.9.2022.
4. The assessee aggrieved with the above assessment order preferred appeal before the Id. CIT(A). Assessee in Form 35 submitted the reason for delay in filing of appeal stated to be that assessee is an illiterate person, cannot read or write English, does not have email id and does not have capability to attend the Income Tax portal. The email id also belonged to the former auditor, who has not informed the assessee about the assessment order and therefore the assessee could

not have filed the appeal in time. Admittedly the appeal before the Id. CIT(A) was delayed by 349 days.

5. The Id. CIT(A) did not condone the delay holding that the above facts are unsubstantiated and did not admit the appeal. Naturally when the delay of the assessee was not admitted, he did not discuss anything on the merits of the case correctly.
6. The assessee is aggrieved with the above order and is in appeal before us. The Id. AR submitted the same facts that assessee is an illiterate person, did not have any access to ITBA portal, the email-id is given by the former auditor of the assessee, who did not inform the assessee about the assessment order, this has resulted in delay before the Id. CIT(A). He submits that the Id. CIT(A) did not appreciate the ground reality, but merely dismissed the appeal of the assessee relying on several judicial precedents. Thus, according to him, the delay is on account of sufficient cause which should have been condoned and it should have been decided on the merits of the case.
7. The Id. DR vehemently supported the order of the Id. CIT(A) stating that assessee was not at all co-operative and delay was huge which was not explained before the Id. CIT(A) and therefore the same was not condoned rightly.
8. The Id. AR in the rejoinder submitted that assessee is not at fault because before the AO also, he entrusted the work to auditor of assessee and the case of assessee was not represented. When the

appeal was filed, it was also because of the auditor and thus the delay in filing of the appeal is not on account of assessee, but his auditor and assessee should not suffer the same.

9. We have carefully considered the rival contentions and perused the orders of the Id. lower authorities. The assessee filed return of income of Rs.43,01,340. He is also shown gross receipt of Rs.347,83,048 and also claimed expenditure of Rs.3,16,52,500. The return was selected for verification of cash withdrawals, verification of contract receipt and sales turnover to receipt ratio. Before the AO, sufficient notices were issued. In para 2.1, the Id. AO has categorically stated that all the notices were issued to assessee through ITBA portal and sent on his email-id at [bhuvan174@gmail.com](mailto:bhuvan174@gmail.com). The notice u/s. 144 was also sent on the same email-id which remained unresponsive and thus ex parte order was passed u/s. 144 of the Act.
10. Further, before the CIT(A), [rbhuvan\\_ram@yahoo.co.in](mailto:rbhuvan_ram@yahoo.co.in) was the email-id provided for the issue of notices. The Id. AR pointed out that in Form 35 assessee has mentioned that he is an illiterate person, does not know how to operate computer, does not have an email-id also, and further the email-id is also of the auditor. During the course of assessment proceedings, the assessee did not receive any notices and further the assessment order was also not received by the assessee. The appeal was also filed late only for the reason that the assessee did not receive the order by any other means. In the above circumstances, the Id. CIT(A) should have condoned the delay and decided the issue on

the merits of the case. This is also because of the reason that the email-id in the original assessment proceedings did not belong to the assessee. Before the CIT(A), there was no fault on the part of the assessee, after filing of the appeal. Therefore, looking to the status of the assessee, order reaching the email of former auditor, there is sufficient cause for filing of appeal late before the CIT(A). Therefore, we reverse the order of the Id. CIT(A) in not condoning the delay.

11. The case of the assessee before the Id. AO was also that he could not substantiate by filing all the details for the reason that all the notices were issued on ITBA portal. In view of this, we restore the issue to the Id. AO with a direction to the assessee to submit the details within 90 days from the date of receipt of this order. The AO may examine the same and after verification and giving opportunity to the assessee, decide the issue afresh.
12. In the result, the appeal of the assessee is allowed as indicated above for statistical purposes.

Pronounced in the open court on this 23<sup>rd</sup> day of July, 2025.

Sd/-

(KESHAV DUBEY)  
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)  
VICE PRESIDENT

Bangalore,  
Dated, the 23<sup>rd</sup> 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.