

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

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

ITA No.2133/Bang/2024
Assessment year: 2017-18

Srinivasamurthy Arkunda Niranjana, 57, Arkunda Village, Pura Post, Gauribidanur Taluk, Chikkaballapura – 561 208. PAN: ASFPN 7345C	Vs.	The Income Tax Officer, Ward 1, Chikkaballapura.
APPELLANT		RESPONDENT

Appellant by	:	Shri Shivakumar G., CA
Respondent by	:	Shri Subramanian, Jt.CIT (DR)(ITAT), Bengaluru.

Date of hearing	:	02.07.2025
Date of Pronouncement	:	23.07.2025

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Srinivasamurthy Arkunda Niranjana (the assessee/appellant) for the assessment year 2017-18 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 12.8.2024 wherein the appeal filed by the assessee against the assessment order passed on 16.3.2022 was dismissed.

2. The assessee is aggrieved and is in appeal before us.
3. The solitary ground in this appeal is that the assessee did not get proper opportunity to explain the case before the Id.AO and before the Id. CIT(A). It was submitted that the amount of cash deposit by the assessee in Axis Bank & HDFC Bank are also withdrawn for payment to the agriculturists for purchase of vegetables & fruits and whole of the deposit could not have been deemed to be the income of the assessee chargeable to tax u/s. 69A of the Income Tax Act, 1961 [the Act]. It was further stated that non-compliance of the assessee is not wilful. The assessee is an uneducated residing in a small village in Gauribidanur Tq. of Chikkaballapur Dist. and does not have any advisor to guide him for the income tax issue.
4. The brief facts show that AO was in possession of information that assessee has made deposit of Rs.2,55,39,640 in his bank account during the year. The assessee did not file any return of income and therefore notice u/s. 148 was issued on 25.8.2021. Subsequently notices were issued u/s. 142(1) of the Act with detailed questionnaire to explain the source of huge cash deposit. The assessee did not furnish any information, accordingly a show cause notice was also issued, but assessee did not remain present. Therefore assessment order u/s. 144B r.w.s. 144 of the Act was passed wherein the addition of Rs.2,55,39,640 was made to total income of assessee by assessment order dated 16.2.2022.

5. The assessee preferred appeal before the Id. CIT(A). However no information was furnished before the Id. CIT(A) and therefore the order was passed by the Id. AO was confirmed.
6. The appeal was filed before us late by 8 days for which the assessee submitted that as assessee is a small vegetable vendor and is not educated and also not computer savvy, he was not aware that the order of the Id. CIT(A) is not sent by post, but by putting into ITBA portal. The assessee therefore could not take further action, but came to know only when he was made aware that tax of Rs.3.39 crores is to be paid. He immediately filed the appeal which has caused the delay of 8 days.
7. The Id. DR objected to delay in filing of appeal.
8. We have carefully considered the rival contentions and find that the delay is nominal and looking to the facts and circumstances of the case, it cannot be malafide or intentional. Accordingly we condone the delay of 8 days and admit the appeal of the assessee.
9. The only ground of appeal is that he did not get proper opportunity of hearing before the Id. AO and further before the Id. CIT(A). The Id.AR submits that assessee is an illiterate and a small vegetable vendor who makes payment to agriculturists for purchase of vegetables & fruits. Further the sale realisation is also deposited in the bank account. He therefore submitted that addition of above sum is not proper. He further explained that assessee is carrying on the business of vegetable vendor. We find that assessee was issued several notices, but assessee

did not respond. Even when one of the notices was sent by registered post which was received by the assessee. Notices were also issued to the assessee through email. This resulted non-compliance by the assessee resulting into addition of Rs.2,55,39,640. Even before the Id. CIT(A), assessee was issued notices, but no response was received and therefore both the assessing and appellate authorities passed the order ex parte.

10. We find that the Id. CIT(A) issued 3 notices within 2 months and disposed of the appeal of the assessee. The assessee also stated before the Id. CIT(A) in Form 35 that the Advocate of the assessee has passed away. This was considered by the Id. CIT(A) in condoning the delay in filing of the appeal before him of 383 days. Therefore there is no cause with assessee to not to represent his case before Id. CIT (A). Assessee also did not represent his case before the Id. AO. But he has made representation before us. Thus , there is no point in restoring appeal to the file of the Id. CIT (A). Thus, we restore the appeal back to the file of the Id. AO and direct the assessee to deposit Rs 1000/- [Rs. One Thousand Only] as cost to the Prime Minister's National Relief Fund within 30 days from the date of receipt of this order.
11. Looking to the nature of activities of the assessee, in the interest of justice, the issue is restored to the file of the Id. AO with a direction to the assessee to furnish details of deposit of cash in his bank account within 90 days from the date of this order. The Id. AO may consider the explanation of the assessee by examining the bank statement which

was not called for by the AO during the course of assessment proceedings also and then decide the issue afresh. The bank statement of the assessee will show that what for the cash is deposited in the bank account and where it is used. Thereafter giving an opportunity of hearing to the assessee, the issue of taxability of the above sum may be decided afresh.

12. In the result, the appeal of the assessee is allowed for statistical purposes.

Pronounced in the open court on this 23rd day of July, 2025.

Sd/-

(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 23rd July 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.