

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

**BEFORE SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 84 to 86/Bang/2025
Assessment Years : 2009-10 to 2011-12

Smt. Sharadamma, L/R of Late Basave gowda, Paduvale Hippe, V Post Kasaba, Holenarasipur Taluk, Hassan – 573 211. PAN: GVXPS9154R	Vs.	The Income Tax Officer, Ward – 1, Hassan.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Department

Date of Hearing	:	15-07-2025
Date of Pronouncement	:	31-07-2025

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the separate orders of NFAC, Delhi, all dated 19/11/2024 in respect of the A.Ys. 2009-10 to 2011-12.

2. All these appeals are heard together and are being disposed of by way of this common order for the sake of convenience. We will take up the appeal in ITA No. 84/Bang/2025 for A.Y. 2009-10 as the lead case and the

result arrived in the said appeal will apply mutatis mutandis to the appeals in ITA Nos. 85 and 86/Bang/2025 for A.Ys. 2010-11 to 2011-12. Since the grounds raised by the assessee in all the appeals are identical, grounds of appeal raised for the A.Y. 2009-10 in ITA No. 84/Bang/2025 is reproduced herein below for reference.

“1. The learned Commissioner of Income-Tax (Appeals) has erred in confirming the order passed by the Assessing officer. The appellate order as passed being bad in law and in gross violation of principles of natural justice is liable to be quashed.

2. In any case, the orders having been passed in total violation of principles of law, against the principles of natural justice and in a biased/non-judicious way is bad in law and is to be quashed.

3.1 The learned Commissioner of Income tax (Appeals) has also erred in confirming the reopening of assessment by learned Assessing Officer. The conditions precedent for issue of notice U/s. 148 of I.T. Act, 1961 having not been satisfied, the reopening of assessment was bad in law and hence the learned Commissioner of Income tax (Appeals) should have instead of confirming the assessment order, quashed the reopening of assessment.

3.2 In any case, the passing of the order without complying with the legal and statutory requirements of reassessment proceeding also makes the order bad in law and such order is liable to be quashed.

4. In any case and without prejudice, the learned CIT(A) has erred in confirming the determination of some amount by Assessing Officer as taxable income in the hands of non-existent entity and consequential tax calculation and levy of interest. These being not in accordance with law and against the facts of the case are to be totally rejected.

5. In any case and without further prejudice the computation of Income has no basis and is to be ignored in total.

6. In view of the above and on other grounds to be adduced at the time of hearing the impugned order may be quashed or at least the assessment of income as done be deleted and interest levied be also deleted.”

3. The brief facts of the case are that the appellant's husband Shri Basavegowda, who was an assessee, died on 07/09/2014 and thereafter the L/R of the assessee filed the return of income on behalf of the deceased assessee. The AO on the basis that the assessee along with one Mr. Venkatesh had deposited cash into the joint account and based on that, the AO had initiated the proceedings u/s. 147 of the Act. Despite the replies filed by the L/R of the assessee, the AO had confirmed the addition u/s. 68 of the Act. As against the said order, the L/R of the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) had dismissed the appeal on the ground that the assessee had not submitted any written submissions and no documents were filed.

4. As against the said orders, the L/R of the assessee is in appeals before this Tribunal.

5. At the time of hearing, the Ld.AR submitted that the L/R of the deceased assessee is from a village background and not familiar with the proceedings and therefore the L/R of assessee could not view the hearing notices sent by the Ld.CIT(A). The Ld.AR further submitted that it appears that the bank account does not relate to the deceased assessee and therefore the entire addition is not correct. The Ld.AR further submitted that even assuming that there were some cash deposits, having admitted by the AO that the bank account is a joint account, the entire deposits could not be made as the addition is in the hands of the deceased assessee.

6. The Ld.DR relied on the orders of the lower authorities.

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

8. The appellant's husband viz., Shri Basavegowda had some transactions along with another person and after the demise of the said Shri Basavegowda, the assessment was made on the legal heir of the deceased

against which the legal heir had appealed before the First Appellate Authority. In the present case, the AO himself has admitted that the amount was deposited in the joint account of the deceased assessee and one Mr. Venkatesh and therefore it cannot be said that the entire deposits were made by the deceased assessee only. The L/R of the deceased assessee had no knowledge about the transactions made by her deceased husband and therefore the legal heir of the deceased husband could not furnish the details before the authorities. We have also considered the submission made by the assessee that the bank account does not belong to the deceased assessee. Therefore, we are of the view that further probe has to be done and thereafter the liability can be fastened. But unfortunately, even though the appeal was filed by the legal representative in time, she has no knowledge about the hearing notices sent by the Ld.CIT(A).

9. By considering the facts that the L/R of the deceased assessee is from a rural background and also the transactions are done by the deceased assessee and the L/R of the deceased assessee has no knowledge in the operating of the systems, we are inclined to grant one more opportunity to the L/R of the deceased assessee for appearing before the AO with the documents available and to show that the money deposited in the joint account is not true. We have also perused the form 35 in which the L/R of the deceased assessee had given an email ID, but specifically requested not to send any notices to the said email ID. In such circumstances, the notices would not have been viewed by the L/R of the deceased assessee. We, therefore accept the contention of the assessee and set aside the order of the lower authorities and remit the issue to the file of the AO for doing the assessment afresh after granting a reasonable opportunity of being heard to the L/R of the deceased assessee. The L/R of the deceased assessee may also furnish the correct correspondence address to the jurisdictional assessing officer within 15 days from the date of receipt of this order and in such case, the JAO is directed to send the notices to the said address and thereafter complete the assessment proceedings in accordance with law.

10. In the result, all the three appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 31st July, 2025.

Sd/-
(LAXMI PRASAD SAHU)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 31st July, 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