

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"B" BENCH : BANGALORE**

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

ITA No.1163/Bang/2025 SP No.48/Bang/2025 (in ITA No.1163/Bang/2025)
Assessment Year : 2017-18

Shri. Micheal Gowda Lazar, No.1401, Near Begur Hospital, Begur Road, Begur, Bangalore – 5565 600. <b>PAN : ACEPL 0671 Q</b>	Vs.	ITO, Ward – 4(3)(4), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. N. Madhavan, Redtd. Addl. Commissioner.
Revenue by	:	Shri. Swaroop Mannava, Addl. CIT(DR)(ITAT), Bangalore.

Date of hearing	:	05.08.2025
Date of Pronouncement	:	28.08.2025

**ORDER**

***Per Laxmi Prasad Sahu, Accountant Member :***

This is an appeal filed by the assessee against CIT(A)'s order vide DIN & Order No: ITBA/NFAC/S/250/2024-25/1074818991(1) dated 21.03.2025, on the following grounds of appeal :

1. *The Appellant craves leave for raising a legal ground" which was not before the CIT (A).*
2. *Without prejudice to the above, the following grounds are raised :*
3. *The CIT (A) erred in passing a non-speaking Order.*
4. *The CIT (A) failed to appreciate that a Notarised Sworn Affidavit was filed before the AO confirming the receipt of Rs. 50 lakhs by the consenting witness.*

5. *Ld. CIT (A) failed to appreciate that the Show Cause Notice issued on 25/11/2019 by the AO did not speak even a single word about acceptance or otherwise of the Confirmation Deed and Notarised Affidavit.*
6. *The Appellant craves leave to Add, Alter or Delete any Ground of Appeal at the time of hearing.*

2. The assessee has also filed for stay of demand of Rs.32,72,831/- vide his stay application dated 08.06.2025.

3. Briefly stated, the facts of the case are that the assessee filed return of income on 04.08.2017 declaring total income of Rs.6,09,500/-. The case was selected for limited scrutiny on the basis of CASS to verify (i) large cash deposit during the year (ii) cash withdrawals. Accordingly, a notice under section 143(2) of the Act was issued on 09.08.2017 which was served to the assessee. Other statutory notices were issued to the assessee. Assessee submitted reply and it was observed that assessee declared income from business of Rs.5,97,875/- and income from other sources of Rs.1,71,629/-, and declared a taxable income of Rs.6,09,500/- after claiming deduction under Chapter VI A of Rs.1,60,000/-. During the course of assessment proceedings, notice under section 142(1) of the Act was issued on different dates and assessee submitted reply on 19.11.2019 stating that assessee has sold immovable property (vacant land) for a total consideration of Rs.2.7 Crores and has reinvested the proceeds of the sale in another residential house property and claimed exemption under section 54 of the Act. During the Financial Year 2016-17, further opportunity was given to the assessee to furnish details of the asset sold along with copy of sale deed, details of cost of acquisition claimed along with supporting documentary evidences vide show cause notice No.ITBA/AST/7/143(3)(SCN)-2019-20/1012917(1) dated 29.11.2019. In response to the show cause notice dated 29.11.2019, assessee

furnished statement of income, financial state of affairs, copy of sale deed, copy of sale deed of asset purchased and improvements made in the land purchased, copy of bank account statement and copy of absolute sale deed. The assessee has deposited the sale proceeds in the savings bank account and utilized a part of the amount calculated in the stipulated period and claimed exemption under section 54F of the Act.

4. Further, it was noticed that the assessee has sold original assets on 16.12.2010 bearing survey No.66/3 at Kammanahalli Village, Begur Hobli, Bangalore South Taluk and site No.1173, V.P. Katha No.774/B situated at Begur Village, Begur Hobli, Bangalore South Taluk, for a total consideration of Rs.35,36,140/-. The assessee in the computation of Income has claimed an amount of Rs. 35,36,140/- as cost of the old asset and also has submitted an un-registered confirmation deed dated 16.12.2010 for having paid an amount of Rs. 50,00,000/- in cash to the seller P. Chowrappa's Son Sri. C. Gnanaprakash Raj who has signed in the sale deed dated 16.12.2010 as consenting witness No1. Subsequently the assessee has submitted a notarised affidavit dated 19.12.2019 for the confirmation deed dated 16.12.2010 for having paid by cash an amount of Rs. 50,00,000/- to the seller P. Chowrappa's Son Sri. C. Gnanaprakash Raj. The Affidavit was only notarised by Smt. Deepa M, Advocate & Notary Public on 19.12.2019 and not registered. This is the only evidence provided to explain the amount of cash of Rs.50 lakhs paid to the seller's son Sri. C. Gnanaprakash Raj by the assessee. The piece of the evidence submitted by the assessee for payment of Rs. 50,00,000/- in cash for the purchase of the original asset by the assessee was not accepted by AO as no proper supporting evidences to substantiate the claim was submitted and concluded assessment after allowing the proportionate exemption of LTCG under section 54F of the Act of Rs.1,01,41,043/-. The Long Term Capital gain

was assessed at Rs. 1,03,13,800 Accordingly, income was assessed at Rs.1,09,23,300/-.

5. Aggrieved from the above Order, assessee filed appeal before the learned CIT(A) challenging the addition made towards capital gain. The learned CIT(A) confirmed the Order of the AO.

6. Aggrieved from the above Order, assessee filed appeal before the Tribunal. The learned Counsel has filed written synopsis which is as under:

**Ground No. 1 :** Since this ground is in respect of question of Law which was not there before the Ld. CIT (A ) and is having a direct bearing on the tax liability, the Appellant solicits permission of this Hon'ble Forum for raising the same.

**Ld. A. O. Passed the assessment order in gross violation of the Limited Scrutiny norms.**

Appellant filed his Return of Income on 04/08/2017 admitting a Total Income of Rs. 6,09,500/-. Notice issued on 09/08/2018 under Section 143(2) revealed that the case was selected for **LIMITED SCRUTINY by CASS to verify**

1. Cash Deposit during the year and
2. Cash Withdrawals.

In response to Notice under section 142 (1) dated 16/08/2019, Appellant filed details of Cash Deposits & Cash Withdrawals in his Bank Accounts held with Canara Bank (two accounts) and Karur Vysya Bank. Pass Books/Bank Statements for the period 01/04/2016 to 31/03/2019 were filed on 07/08/2019. Satisfied with the details and explanation, the **AO completed the assessment without making any addition in respect of the cash deposits/withdrawals.**

However, on the basis of admission of sale of property in the Return, AO started asking for further details which were promptly provided. While working LTCG the Appellant claimed a sum of Rs. 50 lakhs as cost of improvement, being the amount paid to one C.Gnanaprakashraj for perfecting the title of the seller of property from whom the (now) sold away property was purchased. Not convinced by the Confirmation Deeds & Notarised Affidavits of Gnanaprakashraj confirming the receipt of money, Ld. AO disallowed the sum of Rs. 50 lakhs for working LTCG.

By probing into issues other than those for which the case was selected for (limited) scrutiny without converting the limited scrutiny into a COMPLETE SCRUTINY, the AO has exceeded her jurisdiction paying utter disregard to the following Instructions issued by the CBDT as to how a case of LIMITED SCRUTINY has to be assessed :

1. **Instruction No. 7/2014 dated 26-09-2014** mandated the scope of enquiry to be carried out. Procedure for converting the Limited Scrutiny to

Comprehensive/Detailed Scrutiny elaborated. Such cases are directed to be monitored by the Range Head.

2. **Instruction No.20/2015 dated 29-12-2015** issued detailed clarifications on the earlier Instruction.
3. **Instruction No. 5/2016, dated 14-7-2016** issued directions on the scope of enquiry to be conducted in Limited Scrutiny cases. Also directed that the assessee should be informed of the conversion of limited scrutiny to complete scrutiny.
4. **Instruction No. 225/157/2017/ITA-II dated 23-06-2017** mandates that the Notice under section 143(2) should be issued in the Revised Format enclosing a specimen of the same.
5. **F.No.225/402/2018/ITA.II dated 28-11-2018** specifies the manner in which the information received from other law enforcing/intelligence/regulatory agency in the case selected for Limited Scrutiny.

**Copy of all instructions enclosed herewith.**

The following decisions of the Hon'ble ITAT clearly held that the Assessment Orders passed in violation of the above Instructions are BAD IN LAW AND LIABLE TO BE QUASHED :

Sl. No.	Appellant	Respondent	Bench	ITA No.
1	Sukhdam Infrastructures	ITO	Kolkata	2611(KOL)2019
2	Vudatha Vani Rao	ITO	Vishakapatnam	254/VIZ/2023
3	Srimanta Kumar Shit	ACIT	Kolkata	1911(KOL)2024
4	Sitac Re (P) Ltd	DCIT	Delhi	2237/DELHI/2024
5	Rahul Bajpai	DCIT	Raipur	345(RPR)2023
6	Anantula Vijay Mohan	DCIT	Bangalore	2059 & 2060(BANG)2024

Head Notes in respect of the above decisions are enclosed for the ready reference of the Hon'ble Bench. It is worth mention that the Hon'ble "B" Bench of Bangalore ITAT has set aside the Assessment Order in the case of Anantula Vijay Mohan (Sl. No.6) for violation of Limited Scrutiny Norms.

Since the Ld. AO made addition on an issue for which the case was NOT SELECTED for scrutiny, it is prayed that following the above decision, the assessment order in the case of (this) Appellant may be Quashed as Bad in Law.

Without prejudice to the above, the following grounds are raised :

**Ground No. 2 : The CIT (A) erred in not passing a speaking order :** Decision of CIT(A) finds place in Para 6.1 of his Order dated 21/03/2025 wherein he has reproduced the action of the Ld. AO. His finding is very cryptic in holding that he did not find any infirmity in the Assessment Order. The Ld. CIT (A) failed to elaborate as to how the order was without any infirmity. CIT (A) failed to dispose the grounds raised by the Appellant.

**Ground No. 3 : The CIT (A) failed to appreciate that a Notarised Sworn Affidavit was filed before the AO confirming the receipt of Rs. 50 lakhs by the consenting witness :**

While upholding the rejection of Confirmation Deed of C.Gnanaprakashraj, the Ld. CIT omitted to note that the same person has filed a Notarised Sworn Affidavit confirming the receipt of Rs. 50 lakhs. Neither the AO nor the CIT(A) has given any finding as to how the Affidavit is not legally valid as an evidentiary document.

**Ground No. 4 : Ld. CIT (A) failed to appreciate that the Show Cause Notice issued on 25/11/2019 by the AO did not speak even a single word about acceptance or otherwise of the Confirmation Deed and Notarised Affidavit :** The show cause notice is an indicator of the additions proposed to be made in the Assessment Order. In Para 4 of the SCN, the Ld. AO has asserted that evidences were not filed for the cost of acquisition and improvements thereto, conveniently omitting that the Purchase Document, Confirmation Deed and Notarised Affidavits were available on her office records. In spite of the above fact, the Ld. AO did not divulge that the Notarised Affidavit will not be given its due cognisance thereby preventing the Appellant from establishing the evidentiary value of the same. Ld. CIT(A) skipped this aspect by not sitting on judgement,

**Ground No.5 : The Appellant craves leave to Add, Alter or Delete any Ground of Appeal at the time of hearing : NIL.**

7. He reiterated the submissions made in the above written synopsis.
8. On the other hand, learned DR relied on the Order of the AO and objected for accepting additional ground and submitted that the AO has noticed that the assessee has deposited huge cash in the bank account and he has withdrawn Rs.50 lakhs of cash and paid to C. Gnanaprakashraj which has not been accepted by the AO. Therefore the legal grounds raised by the assessee is not acceptable. The instructions issued by the CBDT and case law relied on as above in the written synopsis filed will not help the assessee since

AO has examined the issue, being the very purpose of selection for scrutiny and even it has been observed that the assessee has not shown any capital gain in his return of income inspite of having capital gain on the sale of capital asset (vacant land). The Computation of capital gain is correct. THE payment of RS. 50,00,000/- is direct correlated with the cash withdrawal as per reason for selection of scrutiny.

9. Considering the rival submissions, we noted that the case has been selected under CASS for the examination of the above noted 2 points under limited scrutiny and copy of notice under section 143(2) of the Act is placed at Paper Book Page Nos.16 and 17. We are in agreement on the arguments of the ls. DR. On going through the above reason for selection of scrutiny, we observed that the assessee has taken additional ground in the written synopsis noted above but the AO has not given complete finding on that particular point. Therefore, this issue is remitted back to the AO for a conclusive finding. We noted from the Order of the AO that assessee has paid Rs.50 lakhs in cash which has been disallowed. During the course of hearing before us, assessee has not produced complete copy of the notice issued by the AO under section 142(1) of the Act to examine the relevant issue for selection for scrutiny under CASS. Therefore, the additional ground raised by the assessee is not maintainable and we remit this issue back to the file of the AO for giving conclusive finding for payment of Rs.50 lakhs as it is not discerning from the Order of the AO the source of Rs.50 lakhs paid by the assessee as noted in the Assessment Order at para No.4. Assessee has also not filed complete details of submissions made during the course of assessment proceedings. Therefore, this issue is remitted back to the file of AO for a conclusive finding of payment of Rs.50 lakhs. The AO is directed to give reasonable opportunity of being heard to the assessee and decide issue as per law. The assessee is directed to

substantiate his claim with cogent documents and not to seek unnecessary adjournments for early disposal of the case.

10. Assessee has also filed stay of demand in stay application No.48/Bang/2025. Since we have remitted the quantum proceedings to the file of AO, therefore there is no need to adjudicate the stay petition filed by the assessee. Therefore, this stay is dismissed.

11. In the result, appeal filed by the assessee is allowed for statistical purposes and stay petition is dismissed.

*Pronounced in the open court on the date mentioned on the caption page.*

**Sd/-**

**(SOUNDARARAJAN K)**  
**Judicial Member**

**Sd/-**

**(LAXMI PRASAD SAHU)**  
**Accountant Member**

Bangalore.

Dated: 28.08.2025.

/NS/\*

Copy to:

- |               |                        |
|---------------|------------------------|
| 1. Appellants | 2. Respondent          |
| 3. DRP        | 4. CIT                 |
| 5. CIT(A)     | 6. DR,ITAT, Bangalore. |
| 7. Guard file |                        |

By order

Assistant Registrar,  
ITAT, Bangalore.