

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

**BEFORE SHRI NARENDER KUMAR CHODHRY, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.1159 - 1162/Bang/2025
Assessment Year: 2015-16 - 2018-19

N Kumar Swamy (HUF), No.34, Vaishnavi, Bank Officers Housing Colony, Panduranganagar, BG Road, Bangalore – 560 076. PAN – AAIHN 1533 M	Vs.	The Income Tax Officer, Ward – 3(1) Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri K Kotresh, CA
Revenue by	:	Shri Ganesh R Ghale, Standing Counsel for Department

Date of hearing	:	13.08.2025
Date of Pronouncement	:	09.10.2025

ORDER

PER BENCH :

All these appeals are filed by the assessee against the order passed by the Addl/JCIT(A)-2, Kolkata vide order dated 27/06/2024 for the assessment year 2015-16 to 2018-19.

2. We have heard the submissions of the learned AR and the learned DR. We have also gone through the affidavit explaining the delay in filing the appeal by the assessee and the supporting documents.

3. The assessee HUF filed its return of income for A.Y. 2015-16 declaring interest income from fixed deposits. The TDS, however, was deducted under the individual PAN instead of the HUF PAN. This mistake resulted in denial of TDS credit by CPC while issuing intimation under section 143(1) of the Act. The assessee filed a rectification petition under section 154 of the Act. However, the rectification order dated 16-12-2019 repeated the same mistake. Since the error continued, the assessee had no alternate remedy except to approach the appellate authority. Therefore, the appeal was filed before the learned CIT(A). However, in this process, there is a delay of 973 days in filing the appeal before the Id. CIT-A. The explanation given is that the assessee was under a bona fide belief that the mistake would be corrected in section 154 of the Act proceedings. Since rectification was not granted, the appeal was filed immediately after passing of the order under section 154 of the Act. Thus, the delay was not deliberate or intentional but caused by reasons beyond the assessee's control.

4. We find merit in the explanation. The assessee pursued the alternate remedy of rectification under section 154 of the Act in good faith, and only when relief was denied, approached the appellate authority. This demonstrates diligence and bona fide conduct. The Hon'ble Supreme Court in *Collector, Land Acquisition v. Mst. Katiji* (167 ITR 471) has laid down that when substantial justice and technical considerations are pitted against each other, cause of substantial justice must be preferred.

5. On merits, we note that the learned CIT(A) did not fully consider the issue of granting credit of TDS under section 199 of the Act in the

light of the judicial precedents. Therefore, in the interest of justice, we set aside the impugned order and restore the matter to the file of the Id. CIT(A) for fresh adjudication, after giving due opportunity to the assessee. Accordingly, the appeal is allowed for statistical purposes.

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

Coming to other appeals of the assessee in ITA Nos.1160 to 1162/Bang/ 2025 for the assessment years 2016-17 to 2018-19

7. The facts of the case on hand are identical to the facts of the case as discussed above, therefore, respectfully following the same, , we set aside the impugned order and restore the matter to the file of the Id. CIT(A) for fresh adjudication, after giving due opportunity to the assessee. Accordingly, the appeals are allowed for statistical purposes.

8. In the result, the appeals of the assessee are allowed for statistical purposes.

9. In the combined result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in court on 9th day of October, 2025

Sd/-

(NARENDER KUMAR CHODHRY)

Judicial Member

Bangalore

Dated, 9th October, 2025

/ vms /

Sd/-

(WASEEM AHMED)

Accountant Member

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore