

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

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

ITA Nos. 2178-2180/Bang/2024

**Assessment Years : 2013-14,
2015-16 & 2012-13**

Shri Vinaya Kumar,
6-19-854/16,
Matadakani Enclave,
Matadakani Cross Road,
Gandhinagar, Bolor – 575006,
Karnataka

Vs.

The Assistant Commissioner
of Income Tax,
Circle-1(1) & TPS,
Mangaluru

PAN: ACGPV6110J

APPELLANT

RESPONDENT

Assessee by : Smt. Vanaja, Advocate

Revenue by : Shri Subramanian, JCIT-DR

Date of Hearing : 11-12-2025

Date of Pronouncement : 12-12-2025

ORDER

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. ITA Nos. 2178-2180/Bang/2024 are the three appeals filed by Shri Vinaya Kumar having similar facts and pleadings for Assessment Years 2012-13, 2013-14 & 2015-16. The Assessee in ITA No. 2178/Bang/2024 [AY 2012-13] is aggrieved showing the facts that Assessee is one of the Director of M/s. Yojaka India Private Limited, Mangalore who ran into difficulties and could not pay the dues of the banks in view of non-payment of its dues by principal employers . It has 5 Directors and one of them being Mr. Vinaya Kumar, the Assessee. The Assessee filed his return of income claiming certain

exemptions wherein reimbursement allowance, uniform allowance and medical allowance claimed by the Assessee as exempted were held to be chargeable to tax and exemptions were denied. The Assessee preferred an appeal against the Assessment Order before the CIT (A) wherein the appeal of the Assessee was dismissed. The Ld. CIT (A) dismissed the appeal of the Assessee infructuous as according to the database it was shown that Assessee has obtained settlement of dispute under Vivad se Vishwas Scheme. The Assessee filed appeals before the ITAT which were originally dismissed by the another bench on the ground of the jurisdiction, later transferred to Bangalore Bench, which were also dismissed. Thereafter, the miscellaneous application was filed and thus appeals were recalled and therefore these appeals are before us.

2. In the Assessment Order for Assessment Year 2012-13 passed u/s. 143(3) r/w. 147 of the Act dated 30.10.2019 it is clear that assessment was passed u/s. 144 of the Act wherein the reimbursement of expenses of Rs. 10,74,091/-, the claim of uniform and medical allowances of Rs. 28,000/- and the deduction of claim of Rs. 10,05,242/- being interest paid to M/s. Yojaka India Private Limited was also disallowed Thus, against the returned income of the Assessee at Rs. 85,30,600/-, the assessment was made at Rs. 1,03,22,553/-.
3. Assessee challenged the same before the Ld. CIT(A) wherein the Appeal of the Assessee was dismissed holding that it is infructuous.
4. Therefore, now the issue before us is that the addition in the hands of the Assessee is made by invoking provision of section 144 of the Act and the Ld. CIT (A) has also dismissed the Appeal of the Assessee holding it to be infructuous without verifying the facts that the dispute in the Appeal has not been settled on account of non-payment of tax determined under Vivad se Vishwas Scheme.

5. The Ld. Authorized Representative submitted that, that identical issue arose before the coordinate bench in case of other Directors in ITA No. 9-12/Bang/2025 in case of Smt. Bharathi Jagdish Bolor and Shri Jagdish Bolor wherein the issue has been restored by order dated 29.05.2025 to the file of the Ld. Assessing Officer for denovo consideration
6. The Ld. Departmental Representative also stated that, that the Assessee did not furnish the requisite information before the Ld. Assessing Officer, may be because of the situation and also the Ld. CIT (A) has dismissed treating it infructuous and therefore it may restored back to the file of the Ld. Assessing Officer with a direction to the Assessee to submit the details.
7. We have carefully considered the rival contentions and perused the orders of the Ld. lower authorities. It has come to our notice that because of the various reasons the Assessee could not furnish the necessary documents before the authorities. It was also the claim of the Assessee that because of the financial constraint on the side of the company, details also could not be obtained by the Assessee from that company. It is also fact that it is the duty of the Assessee to submit the relevant details before the lower authorities in support of his return of income. The Assessee has also failed to do so.
8. In view of the above facts as both the parties have agreed because of the peculiar circumstances of the case to restore it back to the file of the Ld. Assessing Officer, we have carefully considered the above request.
9. In case of ITA No. 9-12/Bang/2025 in case of Smt. Bharathi Jagdish Bolor and Shri Jagdish Bolor who are also the Directors of the same company, the coordinate bench has restored the whole issue back to the file of the Ld. Assessing Officer with a direction to the Assessee to

submit the details before the Ld. Assessing Officer. The directions were issued in paragraph no. 9-11 and that order is as under:-

9. We have considered the submissions made by the assessee that because of the various reasons which were beyond their control, the necessary documents could not be filed before the authorities below. We have also considered the paper books filed by the assessee in support of their claim that the company was in financial difficulties and the banks also initiated recovery proceedings under the various Acts and therefore they were not in a position to furnish all the details before the authorities below. At the time of hearing, the assessee had given an undertaking that they will appear before the jurisdictional assessing officer with the documents in support of their grounds of appeal, if one more opportunity is granted to them.

10. Considering the said submissions made by the assesseees as well as the peculiar position in which the assesseees are situated and also recording the submissions made by the assesseees that they will appear before the AO along with the required documents, we are inclined to grant an another opportunity to the assessee to appear before the AO.

11. We, therefore, set aside the order of the Ld.CIT(A) insofar as it confirms the addition made by the AO and remitted the issue to the file of the AO for denovo consideration. We also made it clear that the assesseees should appear before the jurisdictional assessing officer, within a period of 90 days from the date of receipt of this order along with the documents in support of their case, otherwise, the order of the Ld.CIT(A) would restore automatically.

10. In view of the above facts, respectfully following the decision of the coordinate bench and also because of parity as appeals of other directors of the same company in identical circumstances and facts are restored back to the file of the Id AO, we accept the request of both the parties and restore these all three Appeals back to the file of the Ld. Assessing Officer with similar direction.

11. In view of the above facts all the three Appeals filed by the Assessee are allowed for statistical purposes.

Order pronounced in the open court on 12th December 2025.

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 12th December 2025.

TNTS

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore