

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 1049 & 1050/Bang/2025
Assessment Years : 2013-14 & 2017-18

Shri Dalavai Audikesavulu Srinivas, Legal Heir of Late Smt. DA Sathyaprabha, No. 7/21, 1 st Cross, 9 th Main, RMV Extension, Sadashivanagara, Bengaluru – 560 080. PAN: AFQPS8125K	Vs.	The Deputy Commissioner of Income Tax, Central Circle – 2(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri H. Siva Prasad Reddy, ITP
Revenue by	:	Shri Shivanand H Kalakeri, CIT-DR

Date of Hearing	:	15-10-2025
Date of Pronouncement	:	12-01-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These appeals are filed by the assessee challenging the separate orders of the Ld.CIT(A)-15, Bengaluru both dated 31/01/2025 in respect of the A.Ys. 2013-14 and 2017-18. Both these appeals were heard together and are being disposed of by way of this common order since the assessee is one and the same.

2. Both these appeals are filed with a delay of 28 days and the assessee also filed separate applications to condone the said delay. We have considered the reasons given by the legal heir of the deceased assessee and also considered the delay is only 28 days and therefore we are condoning the delay in filing these appeals and proceeded to decide the appeals on merits.

ITA No. 1049/Bang/2025

3. The following grounds are raised by the assessee.

“1. The impugned assessment order passed u/s 143(3) r.w.s 153C of the Act dated, 31-12-2018 is opposed to the facts of the case and the law and therefore, the same is liable to be vacated as void.

2. The alleged notings in the seized document in question were made by the assessee as told by her late husband and therefore, the seized document should have been considered only in the assessment of her husband and not in the hands of the assessee.

3. Without prejudice to Ground No.2, the learned AO as well as the Learned CIT(A) ought to have appreciated that an amount of Rs.27,00,00,000/- could not be held as unexplained investment u/s 69B of the Act:

(i) Because, the seized document is a dumb document containing no date/or year and it did not indicate any actual transaction or payment or receipt of money by the assessee.

(ii) Because, there is no evidence of transfer of funds from one end to another, which is a condition precedent for assessment of undisclosed income based on a seized document, as held by the Hon'ble Jurisdictional High Court and Hon'ble Supreme Court.

4. The learned AO erred in initiating the penalty proceedings u/s 271(1)(c) of the Act.

5. The learned AO erred in levying interest u/s 234A, 234B and 234C of the Act.

6. The Appellant craves leave to add or delete or modify or revise any ground at the time of hearing before the Hon'ble ITAT.

For these and other grounds that may be urged at the time of hearing, it is prayed that the Hon'ble ITAT may be pleased to allow the appeal in the interest of the equity and justice.”

4. The brief facts of the case are that the assessee is Smt. D. A. Sathyaprabha and the appeal has been filed by the assessee's legal heir Shri D.A. Srinivas who is the son of the assessee. The assessee was an individual and filed her return of income on 27/03/2014 and declared a Nil income consequent to the set off of business loss against income from house property and income from other sources. A search action was conducted on 23/09/2016 in the case of M/s. Srinivasa Trust and in connection with the said search, the assessee's residence at Chittoor was also searched. The AO of the searched person had informed the AO of the assessee that at the time of search, several documents were seized from the residence of the assessee. The AO of the searched person after recording his satisfaction that the seized documents belonged to the assessee and handed over the said seized materials to the AO of the assessee. The AO of the assessee after satisfying himself that the documents seized would have a bearing on the total income of the assessee, had issued a notice u/s. 153C of the Act on 11/09/2018. Again the assessee filed her return of income on 09/12/2018 by declaring a Nil income. Thereafter notice u/s. 142(1) was issued and assessee's case was taken up for scrutiny and notice u/s. 143(2) was issued. The assessee through her authorised representative appeared before the AO and submitted the copy of the return filed and the computation statement also.

5. During the course of search proceedings, the authorities had put Prohibitory order on the wooden almirah at the residence of the assessee in which the evidences of cash payments were found and seized in the form of loose sheets, with the number marked as 5 in the Folder A-1/SG/DAS/LS/S-1. The authorities had confronted the said details with the assessee and also recorded a statement u/s. 132(4) of the Act. The assessee in the statement stated that the details found in the loose sheets are nothing but the transactions effected by her late husband and the assessee also stated that “the notings in the loose sheets were recorded by

her which was orally informed by her husband before his death.” The assessee also stated that the notings are written based on the memory and therefore she has no knowledge about the transactions and also does not know about the persons’ name mentioned in it. The AO also issued a show cause notice for which also the assessee submitted that the entries are all noted from her memory and does not relate to her transactions. The assessee also relied on the statement given u/s. 132(4) and expressed her inability to identify the persons mentioned therein. The AO not accepted the explanations offered by the assessee and observed that the assessee has to prove the entries are not related to her. The AO also relied on the provisions of section 132(4A) and 292C of the Act for the proposition of presumption. The AO therefore presumed that the details in the loose sheets are the hand loans received or given in cash and added the amounts mentioned in the loose sheets to the total income of the assessee as unexplained investment u/s. 69B of the Act. The AO had also observed that alternatively section 69 would also be applicable since the entries are cash entries. The AO had added the said amounts in the A.Y. 2013-14 since the husband of the assessee died on 24/04/2013 and also the assessee had written the sheets based on the information given by her deceased husband. The AO also proposed to impose the penalty u/s. 271(1)(c) of the Act. As against the said order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) had not accepted the ground raised by the assessee that the AO had no jurisdiction to initiate the proceedings u/s. 153C of the Act. Similarly, the Ld.CIT(A) had also not accepted the ground that the proceedings should have been initiated u/s. 153A of the Act since the assessee was searched. The Ld.CIT(A) had also dismissed the other grounds by relying on section 292C of the Act.

6. As against the said order, the present appeal has been filed before this Tribunal.

7. At the time of hearing, the Ld.AR submitted that admittedly, the details in the seized document exhibits nothing and even assuming that the

entries are exhibits something it related to her late husband and therefore the assessment made on the assessee is not correct. The Ld.AR further submitted that the entries in the loose sheets would not be treated as an unexplained investment u/s. 69B of the Act since the seized document is nothing but a dumb document and the essential details were not available to fasten the liability on the assessee. The Ld.AR also filed a paper book and enclosed the copy of the seized document, statement of the assessee, copy of the statement of Mr. Rajan Premachander, who is the son-in-law of the assessee. The Ld.AR also enclosed the judgments of the Hon'ble Supreme Court as well as the Hon'ble Jurisdictional High Courts and also a judgment of the Hon'ble Gujarat High Court and prayed that the appeal may be allowed.

8. The Ld.DR submitted that the loose sheets were seized from the residence of the assessee and the entries in the said loose sheets were also in the writing of the assessee and therefore the assessee is duty bound to explain the said entries, which the assessee had failed to do and therefore the AO had rightly presumed that the entries mentioned in the loose sheets were belonged to the assessee and prayed to dismiss the appeal.

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

10. In the present appeal, the assessment has been made based on the seizure of the loose sheets which has been extracted for the purpose of easy reference.

⑤ Loans

Bank 108 Chaitanya
 K.B.D. 25
 Survival trust 18.
 Devraj Choudry - 5
 Personal loan - 26 to 30-
 K.B.D. 15
 Siddarth given 2 is not listed
 in my hand today 1+2+2+ something
 moksh had near upto 9
 Venkataramana given 1
 Vivek - given 1 check
 3 Cash
 Prem given 34
 Sateenapala 404

11. We have also perused the statement given by the assessee in which the assessee had explained that the notings in the said loose sheet are nothing but the information given by her husband before his demise and therefore she has no knowledge about the transactions or the persons mentioned in the sheet. In the statement, the assessee had also stated that the notings were based on her memory and does not relate to her

transactions. The AO had not accepted the submissions made by the assessee for the simple reason that the loose sheet was seized from the residence of the assessee and it is in her handwriting. We have also perused the alleged loose sheet seized at the time of search. On going through the said loose sheet, we do not find that the details are not enough to treat the same as transactions and related to the assessee. From the date of search, the assessee had also explained that the entries are based on the information given by her deceased husband and it does not relate to her transactions. The assessee had also stated that she doesn't know about the persons' name mentioned in the said loose sheets. The AO had on presumption had treated the figures mentioned in the slip as transactions of the assessee when admittedly, the assessee is having only income from house property and income from other sources. The AO had not established that the amounts were transferred from one person to another in order to treat the said transactions as related to the assessee.

12. As admitted by the authorities, it is a loose sheet which does not contain transactions on a continuous basis. The authorities had failed to correlate the entries in the loose sheet with the books of accounts of the assessee to treat the said entries as transactions effected by the assessee. When the loose sheet was seized, the authorities should have conducted further enquiry to find out the genuineness of the entries, but no such enquiry has been conducted and only by relying on section 292C of the Act, on presumption the addition was made in the hands of the assessee. No other corroborative evidences were also found out by the authorities in addition to the recovery of loose sheet. Further, the statements given by the assessee u/s. 132(4) of the Act also does not support the case of the revenue. In the statements as well as in the replies filed to the various notices, the assessee had submitted that these are all the notings noted by her based on the information given by her late husband and therefore the assessee had no knowledge about the notings and the names of the persons mentioned in the said notings. In the present case, we found that the authorities had seized only a loose sheet in which no date, month and year

has been mentioned and also no signature authenticating the said entries were found. Therefore, as rightly contended by the assessee, we are accepting that the loose sheet seized are nothing but a dumb document and it could not be relied on for making additions. We have also perused the Division Bench judgment of the Hon'ble Jurisdictional High Court reported in (2024) 469 ITR 197 (Karnataka) in the case of DCIT Vs. Sunil Kumar Sharma wherein it was held as under:

“22. The entire allegation is made out on the basis of loose sheets of documents, which does not come under the ambit and scope of ‘books of entry’ or as ‘evidence’ under the Indian Evidence Act.

24. The aforesaid approach is in accordance with good reasoning and we are in full agreement with it. Applying the above tests, it must be held that the two spiral note books (MR 68/91 and 71/91) and the two spiral pads (MR 69/91 and MR 70/91) are "books" within the meaning of Section 34, but not the loose sheets of papers contained in the two files (MR 72/91 and MR 73/91).”

26. It is established in law by the Hon'ble Apex Court that a sheet of paper containing typed entries and in loose form, not shown to form part of the books of accounts regularly maintained by the assessee or his business entities, do not constitute material evidence. Following the law declared by the Hon'ble Apex Court, we are of the view that the action taken by the respondent / Revenue against the Assessee based on the material contained in the diaries/loose sheets, are contrary to the law declared by the Hon'ble Apex Court. In that view of the matter, impugned notices issued under Section 153C of the Act, based on the loose sheets/diaries are contrary to law, which require to be set aside in these writ appeals, as the same are void and illegal.”

13. The Hon'ble Jurisdictional High Court had relied on the judgment of the Hon'ble Supreme Court reported in (2017) 394 ITR 220 in the case of Common Cause (A Registered Society) vs. Union of India in coming to the said conclusion. The Hon'ble Jurisdictional High Court also relied on the another judgment of the Hon'ble Supreme Court reported in (1998) 3 SCC 410 in the case of CBI vs. V.C. Shukla.

14. We have also perused the statement given by Mr. Rajan Premachander in which he has not accepted any such transactions as found in the loose sheet which shows that the notings in the slip could not be relied on for making addition.

15. We have also noted that the Hon'ble Supreme Court had affirmed in its judgment reported in (2024) 165 taxmann.com 846, the Division Bench judgment of the Hon'ble Jurisdictional High Court cited above and thereby confirmed the decision taken by the Division Bench that the loose sheets would not be taken as a regular books of accounts and on that basis, addition could not be made.

16. By considering the principles laid down by the Division Bench judgment, we do not find anything more than that of seizure of loose sheet and therefore based on the said loose sheet, no addition could be made. Moreover, the authorities had not relied on any other corroborative evidence in support of the loose sheet and therefore the addition solely made based on the loose sheet could not be sustained.

17. In the result, the appeal filed by the assessee is allowed.

ITA No. 1050/Bang/2025

18. The assessee has raised the following grounds:

"1. The impugned assessment order passed u/s 143(3) of the Act dated, 31-12-2018 is opposed to the facts of the case and the law and therefore, the same is liable to be vacated as void.

143(3) - Invalid.

2.1. The impugned assessment order made u/s 143(3) of the Act is invalid since it is not the year of search and therefore, it should have been made only u/s 153C of the Act complying the conditions precedent prescribed.

2.2. The learned CIT(A) GROSSLY ERRED in not following the ratio of the judgment of the Hon'ble Supreme Court in the case of Jasjit Singh (2023) 155 taxmann. com 155 (SC), which cancelled the assessment order made u/s

143(3) as it was not the year of search and fell within the block of six assessment years u/s 153C in view of the provisions of section 153A(1)(b) read with section 153C(1) of the Act.

On Merits.

3. The learned AO as well as the Learned CIT(A) ought to have appreciated that credit balance of Rs.35,00,000/- could not be added as cessation of liability:

(i) Because, the credit balance is not a trade creditor, but loan on capital account and therefore, outside the scope of section 41(1) of the Act.

(ii) Because, the credit balance is not written off by the assessee and recognized as income in Profit 86 loss account, in contra-distinction to the cases relied upon by the learned AO.

(iii) Because, the credit balances, whether trade creditors or capital account balances, cannot be subjected to tax u/s 41(1) or 28(iv) merely on the ground that the same is barred by limitation.

4. The learned AO erred in initiating the penalty proceedings u/s 270A of the Act.

5. The learned AO erred in initiating the penalty proceedings u/s 271AAC of the Act.

6. The learned AO erred in levying interest u/s 234A, 234B and 234C of the Act.

7. The Appellant craves leave to add or delete or modify or revise any ground at the time of hearing before the Hon'ble ITAT.

For these and other grounds that may be urged at the time of hearing, it is prayed that the Hon'ble ITAT may be pleased to allow the appeal in the interest of the equity and justice."

19. The brief facts of the case are that the assessee is Smt. D. A. Sathyaprabha and the appeal has been filed by the assessee's legal heir Shri D.A. Srinivas who is the son of the assessee. The assessee was an individual and filed her return of income on 27/03/2014 and declared a Nil income. A search action was conducted on 23/09/2016 in the case of M/s. Srinivasa Trust and in connection with the said search, the assessee's

residence at Chittoor was also searched. The AO of the searched person had informed the AO of the assessee that at the time of search, several documents were seized and unaccounted cash was also found in the residence of the assessee. During the course of search proceedings, the authorities had put Prohibitory order on the wooden almirah available at the residence of the assessee in which the cash was found documents were found and seized in the form of loose sheets with the number marked as 5 in the Folder A-1/SG/DAS/LS/S-1. Based on the search and seizure, a sworn statement u/s. 132(4) was also recorded in which the assessee had stated that his son gave her a sum of Rs.60 Lakhs. The said statement was confronted to the assessee's son and the assessee's son in his sworn statement had admitted that the said cash belonged to him. The assessee also submitted that her son also filed an application before the Settlement Commission in which the said Rs. 60 Lakhs was offered to tax. The AO without verifying the said facts had rejected the said explanations and confirmed the addition in respect of the cash seized u/s. 69A of the Act. Similarly, at the time of search proceedings, the assessee's son also gave a statement that there are long standing sundry creditors and the AO had treated the said sundry creditors as cessation of liabilities and treated the same as additional income for the relevant A.Y. The AO had relied on the question nos. 9 to 11 of the statement given by the assessee's son and concluded that the assessee had claimed the said sundry creditors as deductions in the earlier years. The assessee objected that the addition could not be made based on the statement of her son since the same is not binding on her and also submitted that the liabilities are not in the nature of trade credit. The AO based on the assumption that the sundry creditors are long standing and therefore the recoveries are barred by limitation and on that basis, the creditors might not have claimed the said amounts which would be in the nature of income for the assessee. The AO had not accepted the explanations since the assessee had not provided any details with respect to the recoverability of such loans by the creditors and therefore treated the trade credits liability to be added as cessation of liability u/s. 41(1) of the Act and therefore added the forfeiture of loan amounts as

income u/s. 28(iv) of the Act. The AO had taken the outstanding amount from the creditor M/s. McDowells & Co. Ltd. as stagnant and treated the said balance amount of Rs. 35 Lakhs as the income of the assessee. The assessee challenged the said order before the Ld.CIT(A). Insofar as the seizure of the unaccounted cash seized at the time of search, the Ld.CIT(A) had considered the fact that the assessee's son Shri D.S. Srinivas had included the said cash of Rs. 60 Lakhs in the application filed before the Settlement Commission and tax was also paid and on that basis deleted the said addition made by the AO. Insofar as the addition made u/s. 41(1) of the Act, the Ld.CIT(A) had confirmed the order of the AO.

20. As against the said order, the present appeal has been filed by the assessee before this Tribunal.

21. At the time of hearing, the Ld.AR submitted that the assessment made u/s. 143(3) is invalid since the search has been conducted during the year and therefore the proceedings should have been initiated u/s. 153C of the Act. The Ld.AR, on merits had submitted that the credit balance is not a trade credit but loan on capital account and therefore it would not come under the scope of section 41(1) of the Act. The Ld.AR also submitted that the credit balance could not be treated as income u/s. 41(1) of the Act merely on the ground that the same is barred by limitation.

22. The Ld.DR submitted that the AO had considered the submission that the liability is on capital account and therefore cannot be taxed u/s. 41(1) of the Act and therefore submitted that even though it is on capital account, since the said amount is outstanding for a long period of time, it could be treated as income u/s. 41(1) of the Act and therefore to be assessed u/s. 28(iv) of the Act.

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

24. The reason given by the AO as well as by the Ld.CIT(A) to treat the said outstanding liability as profits chargeable to tax u/s. 41(1) of the Act is that the said amount is a long standing amount which could not be recovered because of limitation and other things. We have also perused the relevant provision which dealt with the issue in which it was stated that, if an allowance or deduction has been made in the assessment for any year in respect of the loss, expenditure or trading liability and subsequently, the assessee had the benefit of cessation of the said trading liability or expenditure, it could be treated as profits chargeable to tax. In the case on hand, it was not proved that in the earlier assessment, the liability or expenditure were claimed as allowances or deduction in order to treat the said liability as profit chargeable to tax. Even in the earlier years, the claim was made and allowances or deduction has been granted, then subsequently, if the assessee had received back the said expenditure or trading liability from the creditors by way of cessation, it could be treated as profits chargeable to tax u/s. 41(1) of the Act. From the books of accounts maintained by the assessee, it came to light that the said amounts are still shown as outstanding amounts and therefore because of the long pendency of the said dues, automatically it could not be treated as profits liable to be taxed u/s. 41(1) of the Act. The AO could have ascertained the facts from the creditors and based on that, if he is able to found that the same are not payable to the creditors, it could be treated as profits to be added as income in the hands of the assessee. No other documents were also relied on by the AO to show that the long standing outstanding dues are not claimed by the creditors to treat the same as cessation and therefore it could be added as income u/s. 41(1) of the Act. The outstanding sundry creditors were found place in the books of accounts even during the A.Y. and therefore unless and until it was proved by the AO that there is a cessation of liability, it could not be treated as income in the hands of the assessee. The AO could not be subjected the said amounts as taxable in the hands of the assessee merely on the basis that the claim is barred by limitation. The provision also does not envisage such circumstances to treat the same as liable to be taxed in the hands of the assessee. We, therefore find that the assessment

order as well as the order of the Ld.CIT(A) is not in accordance with the provisions of section 41(1) of the Act and therefore the long outstanding due of Rs. 35 Lakhs could not be added as income u/s. 41(1) of the Act.

25. In the result, the appeal filed by the assessee is allowed.

26. In the combined result, both the appeals filed by the assessee are allowed.

Order pronounced in the open court on 12th January, 2026.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 12th January, 2026.
/MS /

Copy to:

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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