

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

BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT

ITA No. 2249/Bang/2025
Assessment Year: 2016-17

Shri Kandavara Abdul Basheer, 1-224, Zohara Manszil, Church Road, Kandavara, Kinnikambla D.K., Mangalore, Karnataka – 574 151. PAN: AVEPB7561Q	Vs.	The Income Tax Officer, International Tax Ward, Mangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Narendra Sharma, CA
Revenue by	:	Shri Ganesh R Ghale - Advocate, Standing Counsel for Revenue

Date of Hearing	:	15-12-2025
Date of Pronouncement	:	02-02-2026

ORDER

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. ITA No. 2249/Bang/2025 is filed for Assessment Year 2016-17 by Shri Kandavara Abdul Basheer, Mangalore (the Assessee/Appellant) against the Appellate Order passed by the CIT(A), Bangalore-12 on 08.08.2025 wherein the Appeal filed by the Assessee against the re-assessment order passed u/s. 147 r.w.s. 144C of the Act on 09.05.2024 by the Income Tax Officer, International Taxation Ward, Mangalore was dismissed for the reason that the Ld. CIT(A) in paragraph no. 4.4 noted that Assessee is not keen in pursuing the Appeal and as Assessee has not furnished any information to decide the issue on merit. The Ld. CIT(A) is left with no option but to dismiss the Appeal.

2. The Assessee is in appeal.
3. The fact shows that Assessee is a non-resident individual residing at Saudi Arabia who has not filed his return of income, but intimation is received about the transaction of TDS that purchase of immovable property u/s. 194-IA of Rs. 55,00,000/-. As the Assessee has not filed its return of income the notice u/s. 148A was issued. In response to notice u/s. 148, the Assessee filed his return of income on 06.12.2023 at a loss of Rs. 49,425/- under the head income from house property. Subsequently, notice u/s. 143(2) was also issued asking for further details which were submitted by the Assessee.
4. The Ld. Assessing Officer noted that Assessee has purchased residential apartment no. 1102 in Presidency Sky Court on 19.02.2016 for total consideration of Rs. 55,00,000/-. The Assessee has obtained a housing loan from State Bank of India under NRI home loan scheme of Rs. 48,00,000/- submitting the bank statement. The balance payment was paid in advance in earlier years which was transferred from his NRI account. The stamp duty payment and the registration charges were paid by demand draft of HDFC bank and in cash. The Assessee submitted that he does not have any income.
5. The Ld. Assessing Officer noted that the Assessee has not furnished any evidence for the balance payment of Rs. 7,00,000/- as well as stamp duty and registration charges of Rs. 3,81,240/-, he made the addition. Further, he found that purchase consideration of the immovable property of Rs. 55,00,000/- is the fair market value as per the stamp duty rate of Rs. 57,90,000/- and therefore the difference of Rs 2,90,000/- is required to be made u/s. 56(2)(vii)(b) of the Act. Accordingly, the draft assessment order was passed on 13.03.2024. The Assessee did not object to the same before the Ld.

Dispute Resolution Panel and therefore the Ld. Assessing Officer made the above two additions and determined the total income of the Assessee at Rs. 13,21,820/-.

6. Aggrieved by this, the Assessee preferred an Appeal before the Ld. CIT(A) wherein Ld. CIT(A) noted that Assessee was issued notices of hearing on 4 occasions, but none appeared and therefore she dismissed the Appeal of the Assessee for non-prosecution. Therefore, Assessee is in appeal.
7. The Ld. Authorized Representative submitted that undoubtedly, the Assessee could not remain present before the Ld. CIT(A). Further, in the statement of facts, the Assessee has submitted the complete detail that the amount of Rs. 7,00,000/- has been paid to the builder before 10 years. Therefore, the Assessee needs time to submit the same. It was further stated that the notice u/s. 148 was issued beyond the stipulated time frame. It was issued on 14.03.2023 but it should have been issued before 31.03.2020 considering the fact that income escaped assessment is less than Rs. 50,00,000/- and therefore notice u/s. 148 was also involved. It was submitted that despite submitting the above facts and the facts available in Assessment Order, the Ld. CIT(A) did not adjudicate these grounds. It was submitted that even otherwise, the Ld. CIT(A) do not have authority to dispose of the Appeal on non-prosecution.
8. The Ld. Departmental Representative submitted that escapement of income is required to be noted at the time of issuance of notice wherein the amount escaped was noted at Rs. 55,00,000/-. Therefore, it cannot be said that escapement of income is less than Rs. 50,00,000/-. He further stated that Assessee was given enough opportunity before the Ld. Assessing Officer as well as before the Ld. CIT(A). But Assessee failed to utilize them. The Assessee has also not

opted to file objections before the Ld. Dispute Resolution Panel and therefore no fault can be found with the Ld. CIT(A).

9. I have carefully heard the rival contentions and perused the orders of the Ld. Assessing Officer. At the time of issuance of notice u/s. 148 of the Act, the Assessee is a non-filer and therefore the Ld. Assessing Officer noted that there is an escapement of income of Rs. 55,00,000/-. Subsequently, the Assessee could produce the sources of the funds to the extent of Rs. 48,00,000/- and therefore the addition was made of the impugned amount not of Rs. 55,00,000/- but only of sum, sources of which could not be shown by the Ld. Assessing Officer. Such amount is Rs. 10,81,240/- being the balance payment of purchase consideration as well as the amount paid for registration and stamp charges. Further, sum of Rs. 2,90,000/- was made on account of addition u/s. 56(2)(vii)(b) difference between the stamp duty value of the transaction as well as the amount of consideration paid. Therefore, I do not find any infirmity in the issuance of notice u/s. 148 of the Act. Further, this fact has not at all been dealt with by Ld. CIT(A).
10. Further, I did not find any evidence of the date when the sum of Rs. 7,00,000/- was paid by the Assessee to the builder. Further, a sum of Rs. 3,81,240/- was paid for stamp duty and registration charges out of which Rs. 3,24,240/- was paid by demand draft of HDFC bank and a sum of Rs. 57,000/- was paid for registration charges in cash.
11. Further, I do not find any evidence either in the Assessment Order or in the order of the Ld. CIT(A) that Assessee was either questioned about the difference between the stamp duty value and the transaction value. No doubt, the Assessee did not prefer any objection before the Ld. Dispute Resolution Panel but in the statement of facts, the Assessee has mentioned that the sum of Rs.

7,00,000/- is 10 years old transaction and therefore the Assessee being a non-resident could not obtain the information.

12. Even before the Ld. CIT(A), the Assessee was granted 4 opportunities. The Ld. CIT(A) in paragraph no. 3 categorically mentions that she has perused the statement of facts and therefore disposes of the Appeal in paragraph no. 4.4 for non-prosecution. The Ld. CIT(A) has to decide the Appeal on the merits of the case as per information available on record. She has neither applied the facts stated in the Assessment Order nor the facts stated in the statement of facts.
13. Undoubtedly, the Assessee has failed to submit the information about Rs. 7,00,000/- paid to the builder. The Ld. Assessing Officer, also despite having the sale deed in his possession, did not record the date on which the Assessee has paid Rs. 7,00,000/-. He also did not call for the bank statement from HDFC bank wherein the Assessee claims to have paid money for obtaining bank draft of Rs. 3,24,240/-.
14. Thus admittedly, the Assessee being a non-resident deserves one more opportunity of hearing for the addition of Rs. 10,81,240/- and further as the Assessee has not at all been questioned with respect to the addition of Rs. 2,90,000/-, in the interest of justice, I restore the whole issue back to the file of the Ld. Assessing Officer with a direction to the Assessee to substantiate the sources of payment of Rs. 10,81,240/- and also explain before the Ld. Assessing Officer with respect to the difference between stamp duty value and the registration value. I also find that the difference between the stamp duty value and the transaction value is less than 10%. The Assessee may explain this issue before the Ld. Assessing Officer within 90 days of the date of receipt of this order. The Ld. Assessing Officer may

consider the same and pass the draft Assessment Order on the facts of the case in accordance with the law.

15. In the result, Appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 02nd February, 2026.

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 02nd February, 2026.

TNTS

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore