

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH: BANGALORE**

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

ITA No.763/Bang/2025
Assessment year : 2019-20

Thippareddy Govindareddy Malli Reddy, No.178, 18 <sup>th</sup> Main, HSR Layout S.O., Sector 4, Bangalore South, Bangalore – 5620 102. <b>PAN: AIWPM 8696A</b>	Vs.	The Deputy Commissioner of Income Tax, Central Circle 2(3), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri V. Srinivasan, Advocate
Respondent by	:	Shri Subramanian, Jt.CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	09.12.2025
Date of Pronouncement	:	16.02.2026

**ORDER**

*Per Prashant Maharishi, Vice President*

1. ITA No. 763/Bang/2025 is filed by Thippareddy Govindareddy Malli Reddy (the assessee/appellant) against the appellate order passed by the Commissioner Of Income Tax (Appeals) – 15, Bangalore (the learned CIT – A) dated 28th of January 2025 wherein appeal filed by the assessee against the assessment order passed by the Deputy Commissioner of Income Tax, Central Circle – 2 (3), Bangalore (the

Id.AO) dated 15 April 2021 u/s. 143 (3) of the Income Tax Act, 1961 [the Act] was partly allowed.

2. The assessee is aggrieved with the same and has preferred this appeal raising following grounds of appeal: –

- (i) The orders of the learned AO and learned CIT – A, to the extent prejudicial to the appellant are arbitrary, based on surmises and conjectures, against the weight of evidence, opposed to established principles of jurisprudence and in violation of principles of natural justice.
- (ii) The learned CIT – A is not justified in passing the impugned appellate order without considering or alluding to the elaborate submissions made by the appellant.
- (iii) The learned CIT – A order in confirming the addition of cash loans to the extent of ₹ 17.20 lakhs solely based on the retracted statement of the appellant without showing any corroborative evidence for the alleged cash loans stated to have been given by the appellant during the relevant previous year.
- (iv) The learned CIT – A erred in holding that the appellant's restriction was not supported by any documentary evidence whereas the appellant sought to correct his statement by submitting that the figures scribbled in the loose papers are not cash transactions. They are only amounts expected to be received/paid. This has been proved by submitting the Ledger account of Sri K C Venkataramanappa and the same has been accepted by the learned CIT – A while deleting the addition of ₹ 40 lakhs
- (v) The learned CIT – A erred in holding that the seized paper constitutes incriminating material as it contains unaccounted cash transaction whereas the seized paper nowhere mentions that the alleged cash loans were given to Mr Ravichandran and Mrs Rekha during the relevant year.
- (vi) The learned CIT – A erred in upholding the addition made by the AO even though the seized paper does not indicate the date or

year of the alleged cash transaction with Mr Ravichandrana and Mrs Rekha and consequently, it does not constitute incriminating material for the assessment year in question.

(vii) The learned CIT – A erred in confirming the above addition made u/s 69A even though the AO failed to prove the veracity of the alleged cash loans.

(viii) The learned CIT – A erred in confirming the addition of cash seized amounting to ₹ 20 lakhs without appreciating the facts and circumstances of the appellant's case. The appellant had sufficient agricultural income received in the form of cash and had produced the cashbook compiled after the search and the lower authorities have not pointed out any inconsistencies in the cash book so compiled.

3. Brief facts of the case shows that assessee is an individual who filed his revised return of income u/s. 139 (5) on 13/11/2019 at total income of ₹ 2,439,330/-. This return was processed under section 143 (1) on 18/12/2019. The assessee, is also a partner in the firm, M/s. R K Cortina. A search u/s. 132 of the Act was conducted in the case of above assessee to various premises covered, residence of wife of the assessee was also covered. Consequent to the search, the case has been centralised. During the course of search books of accounts, documents were found and seized and marked as annexure. Assessing officer, who is also the assessing officer of the partnership firm noted that document found during the search on the partnership firm have a bearing on the determination of the income of the assessee for the year under consideration. Therefore the learned assessing officer of the partnership firm is satisfied that these documents relate to and pertains to the assessee and therefore they have a bearing on the total income of the assessee.

4. The return was picked up for scrutiny. The learned assessing officer noted that assessee has given a cash loan of ₹ 79.20 lakhs to various parties over a period from financial year 2013 – 14 to 2018 – 19 which are not recorded in the books of accounts of the assessee. He tabulated the same and also recorded a fact that during the course of search the statement under section 132 (4) was recorded of the assessee on 11 September 2018 wherein he was asked to explain the contents contained in page No. 1 and 2 of the seized material marked as A/TGMRR/01. During the course of examination and his statement under section 132 (4) the assessee has confessed that assessee has given cash loans to various parties in different amount which are not recorded in the books of accounts of the assessee. These loan amounts are paid in cash and some of the cases, assessee has received interest in cash only. Accordingly the assessee agreed to declare. It was found that during the financial year 2018 – 19 ₹ 3,120,000 were given by the assessee as cash loan to the various parties which are not disclosed in the books of accounts of the assessee. Therefore the learned assessing officer made addition under section 69A of the Act of ₹ 3,120,000.
5. During search a sum of ₹ 2,285,000 was found in cash. Out of that a sum of ₹ 20 lakhs were seized. During the course of assessment proceedings the assessee was asked to explain the same, Which assessee could not explain and accordingly the addition under section 69A of ₹ 20 lakhs was made.

6. Accordingly an addition of ₹ 5,120,000 was made to the total income of the assessee and same was assessed at ₹75,59,335, assessment order passed under section 143 (3) of the act on 15/4/2021.
7. The assessee is aggrieved with the same, preferred an appeal before the learned CIT – A. The learned CIT – A considered the explanation of the assessee and confirmed out of the loan addition of ₹ 3,120,000 only ₹ 1,720,000 by granting the relief of ₹ 14 lakhs. With respect to the cash found of ₹ 20 lakhs the addition was confirmed. Accordingly the appeal of the assessee was partly allowed.
8. Assessee being aggrieved with the same has preferred this appeal before us. During the course of hearing, the assessee has made an application for admission of the additional ground wherein it is challenged that –

'the order of assessment passed under section 143 (3) of the act is bad in law and void ab initio as much the learned A.O. has not invoked the provisions of section 153C of the Act based on the documents seized in the course of search especially since the date of recording of the satisfaction is deemed to be the date of search in cases falling under section 153C of the Act and consequently the impugned assessment was required to be passed by assuming jurisdiction under section 153C of the Act.'
9. It is the claim of the learned authorised representative that the above ground raised by the assessee is jurisdictional, goes to root of the matter, and therefore it can be raised at any time during the course of assessment proceedings. He further relied upon several judicial precedents.

10. The learned departmental representative vehemently objected to the same and submitted that assessee did not raise the above grounds before the learned lower authorities and therefore now cannot be raised before the Tribunal for the first time.
11. We have carefully considered the rival contention and perused the orders of the learned lower authorities. The assessee has raised an additional ground of appeal stating that the assessment should have been passed under section 153C of the Act instead of section 143 (3) of Act. We find that the above ground raised by the learned authorised representative is jurisdictional in nature, goes to the root of the matter, and therefore it can be raised at any time during the course of pendency of appeal, and, therefore, same is admitted.
12. Accordingly the additional ground which goes to the root of the matter should be decided first. The assessee claims that in the present case, the search took place on a partnership firm where the assessee is a partner, there from certain documents were found. Therefore the assessing officer should have been invoked the provisions of section 153C of the Act instead of making an assessment under section 143 (3) of the Act. He submitted that the date of search is 10 September 2018. The date of recording of the satisfaction is 16 March 2020. And therefore for the impugned assessment year 2019 – 20 the assessing officer should have initiated the assessment proceedings under section 153C of the Act. He further referred to the assessment order where the learned assessing officer specifically refers to the fact that the documents were found

from the search of M/s Kortina3, partnership firm. He further submits that the learned assessing officer has categorically recorded the fact that he is the assessing officer of that partnership firm and also of the assessee. In view of this the assessment order passed by the learned assessing officer is without jurisdiction and deserves to be cancelled.

13. For the reason that how he is saying that the date of search in case of the assessee is required to be considered at 16 March 2020, the learned authorised representative submitted that the notice under section 153C of the Act was issued for assessment year 2017 – 18 on 16 March 2020. Therefore he is saying that the date of search in the case of this assessee should be taken as 16th of March 2020.
14. The learned departmental representative vehemently objected to the same. He submitted that since the provision of the law under section 153C allows for taking up the cases for scrutiny assessment covered under section 153C where search action was conducted before 1 April 2021. He submits that in the present case the assessment year 2019 – 20 which is the relevant assessment year can be taken up for scrutiny in the assessee's case under section 153C of the Act as has been contended by the assessee. He submits that however section 143 of the Act allows for taking of the cases for scrutiny assessment by issuing a notice under section 143 (2) before the expiry of six months from the end of the financial year in which the return is furnished. He further referred to the CBDT guidelines dated 5 September 2019 wherein it is provided that assessing officer possess the jurisdiction to take up the

present case for the assessment year 2019 – 20 scrutiny assessment both as per section 153C of the Act and also by issuing a notice under section 143 (2) in accordance with the CBDT guidelines for compulsory selection. Thus according to him the action of the learned assessing officer to take up the case of the assessee for the assessment year 2019 – 20 scrutiny assessment as per the compulsory selection guidelines is within the ambit of the law.

15. The learned authorised representative vehemently submitted that in this case the date of search is required to be considered as 16 March 2020 that is the date on which the satisfaction was recorded. And therefore the impugned assessment is for assessment year 2019 – 20, which the assessing officer should have passed under section 153C of the Act. Therefore, the CBDT circular does not save the assessment order which is passed under section 143 (3) of the Act. It was further submitted that the submission of the learned authorised representative is that assessment order passed under section 143 (3) of the Act is without jurisdiction as it should have been passed under section 153C of the Act; whereas the argument of the learned departmental representative is with respect to the selection of the cases for scrutiny which is not the argument of assessee.
16. We have carefully considered the rival contention and perused the orders of the learned lower authorities. In this case the search took place in case of M/s. R K Cortina on 10 September 2018. The assessee was found to be the 'other person' as some documents found from

premises of partnership which pertained to the assessee. therefore, the first notice under section 153C of the Act was issued on 16 March 2020 for assessment year 2017-18. If we take that date itself of first recording the satisfaction by the learned assessing officer, who is same in the case of partnership firm as well as the assessee, therefore, the income of the assessee can be assessed for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made. The first proviso to that section provides that in case of the 'other person' the date of receiving the books of accounts or documents or assessee is or requisition by the assessing officer having jurisdiction over the other person shall be the date of the search. Therefore in this case, the first notice issued under section 153C is on 16th of March 2020, therefore this impugned assessment year 2019 – 20 is also required to be made under section 153C of the Act. In the present case, the learned assessing officer has passed an assessment order in the case of the assessee despite recording the fact that assessee is "the other person", has passed an assessment order under section 143 (3) of the Act. According to that, the impugned assessment order passed under section 143 (3) of the Act cannot be sustained as it should have been passed under section 153C of the Act. Therefore the assessment order deserves to be cancelled and hence cancelled and quashed.

17. Accordingly the additional ground of appeal raised by the assessee is allowed.

18. As we have quashed the assessment order as indicated above as it is passed under section 143 (3) of the Act instead of under section 153C of the Act, the other grounds raised by the assessee does not survive and therefore those are not adjudicated.
19. In the result appeal of the assessee is allowed.

Pronounced in the open court on this 16<sup>th</sup> day of February, 2026.

Sd/-

(KESHAV DUBEY)  
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)  
VICE PRESIDENT

Bangalore,  
Dated, the 16<sup>th</sup> February 2026.

*/Desai S Murthy /*

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.