

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

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

<b>ITA No. 1965/Bang/2025</b>
<b>Assessment Year : 2017-18</b>

Shri Thimmaiah Venkatesh, No. 742, Sri Chamundeshwari Petroleum Point, Hesaraghatta Main Road, Chikkabanavara, Bangalore – 560 090. <b>PAN: ACDPV0682Q</b>	<b>Vs.</b>	The Income Tax Officer, Ward – 2(1)(3), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Ms. Shree Raksha, CA
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	05-03-2026
Date of Pronouncement	:	05-03-2026

**ORDER**

**PER SOUNDARARAJAN K., JUDICIAL MEMBER**

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 27/09/2024 in respect of the A.Y. 2017-18.

**2.** The brief facts of the case are that the assessee is an individual and filed his return of income on 31/10/2017. The assessee is having a dealership in petroleum products. The case was selected for scrutiny through CASS to examine the large turnover shown in the ITR but no audit

report was filed. Notice u/s. 143(2) was issued through speed post and also through the mail. The assessee not filed any reply to the said notice and thereafter notice u/s. 142(1) was issued. The assessee had not responded to any of the notices. Therefore the AO had taken the cash deposits made during and after demonetisation period and on that basis, issued a show cause notice for making the assessment u/s. 144 of the Act. But the assessee had not furnished any details and therefore the AO had estimated the income based on the total receipts. The AO had also proposed to impose penalty u/s. 270A of the Act. Several penalties were also proposed in the order made u/s. 144 of the Act.

**3.** As against the said order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) had dismissed the appeal on the ground that the assessee had not responded to any of the notices issued u/s. 250 of the Act.

**4.** As against the said order, the present appeal has been filed before this Tribunal with a delay of 277 days. The assessee filed an application to condone the said delay of 277 days. In the said application, the assessee submitted that he is not well versed with the English language and also he does not have any access to the email through his mobile and all the accounting and other works are looked after by some part time accountant and therefore the notices issued by the Ld.CIT(A) were not viewed by the assessee. Only when the assessee's bank account was attached, the assessee met the assessing officer and came to know that the Ld.CIT(A) had dismissed the appeal filed by the assessee and thereafter consulted several professionals and the appeal was filed with a delay of 277 days.

**5.** As seen from the assessment order, the assessee had not appeared before the AO and also not responded to the notices issued by the Ld.CIT(A). If the reasons for the delay in filing the appeal has been considered, even though the said reasons are not sufficient to condone the said delay of 277 days, in the interest of justice, we are condoning the said delay and proceeded to decide the appeal on merits.

**6.** At the time of hearing, the Ld.AR submitted the very same reasons for not appearing before the Ld.CIT(A) as well as before the AO. The Ld.AR further submitted that the assessee is a dealer of petroleum products and his profit margin would be around 2% and not at 8% as estimated by the AO and therefore prayed to grant an opportunity to produce all the records to show that the assessee has earned income less than 8%.

**7.** The Ld.DR submitted that the assessee is not cooperating with the department and therefore he need not be shown any indulgence. The Ld.DR further submitted that without any documents, the AO had reasonably estimated the profit margin at 8% and prayed to dismiss the appeal.

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

**9.** No doubt the assessee neither appeared before the AO nor before the Ld.CIT(A). The reasons for not appearing before the authorities and the delay in filing the appeal are that the assessee was not able to view the email without any support from the accountant and he has also not well versed with the English language. The submission made by the assessee that the profit margin at 8% as estimated by the AO is on the higher side and submitted that in this line of trade, normally 2% margin would be available to the assessee.

**10.** Considering the said facts and the undertaking given by the assessee that on remand, he will produce the entire records and substantiate his claim that the income estimated by the AO is abnormal, we are inclined to grant an opportunity to the assessee and therefore we are setting aside the orders of both the authorities and remit this issue to the file of the AO for denovo consideration. We are granting this concession on condition that the assessee should pay a cost of Rs. 2,000/- towards the Prime Minister's National Relief fund and produce the receipt for the said payment before the AO. If the assessee had not produced the payment of the cost, it is deemed

that the orders set aside by us would revive automatically without any further notice from this Tribunal.

**11.** In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 05<sup>th</sup> March, 2026.

Sd/-  
(WASEEM AHMED)  
Accountant Member

Sd/-  
(SOUNDARARAJAN K.)  
Judicial Member

Bangalore,  
Dated, the 05<sup>th</sup> March, 2026.  
/MS /

Copy to:

- |               |                        |
|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A)              |

By order

Assistant Registrar,  
ITAT, Bangalore