

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

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.2382/Bang/2025
Assessment Year: 2016-17

Mamatha Mahesh Shetty, Chittamakki Road, Koppa, Chikkamagaluru – 577 126. PAN – DDOPM 8252 C	Vs.	The Income Tax Officer, Ward – 1, Chikmagalur.
APPELLANT		RESPONDENT

Assessee by	:	Shri Ravishankar S.V, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of hearing	:	26.02.2026
Date of Pronouncement	:	05.03.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The present appeal filed by the assessee is directed against the order passed under section 250 of the Income Tax Act, 1963 (hereafter the Act) dated 06-01-2025 by the Learned Commissioner of Income Tax (Appeal) (hereafter the learned CIT(A)) at National Faceless Appeal Centre-NFAC, for the A.Y. 2016-17.

2. The present appeal is filed with a delay of 210 days. The assessee has moved a petition seeking condonation of delay supported by an affidavit explaining the circumstances which prevented timely filing of the appeal.

3. From the record, it is seen that the assessment order was passed on 14.03.2022 making an addition of Rs. 3,50,000/- only. The assessee filed an appeal before the learned CIT(A) on 03.05.2022. The order under section 250 of the Act was passed on 06.01.2025. The present appeal before the Tribunal came to be filed on 27.08.2025, resulting in a delay of 210 days.

3.1 The reasons furnished by the assessee for the delay are that her husband was diagnosed with kidney failure in 2022 and was undergoing dialysis every week. She was personally attending to him and was fully occupied with his medical care. It is further stated that the proceedings before the learned CIT(A) were being handled by her brother-in-law through a tax practitioner at Mysore, whose email ID was mentioned in Form No. 35 for receiving notices. The assessee submits that she was not personally aware of the hearing notices and the order passed under section 250 of the Act.

3.2 It is further explained that on 05.07.2024, the assessee's daughter passed away and the family was under severe emotional distress. Subsequently, sometime in October 2025, the assessee received a call informing her about the outstanding demand for the AY 2016-17. Thereafter, the brother-in-law contacted the tax practitioner, and only then it came to light that the order under section 250 had already been passed on 06.01.2025. The tax practitioner expressed his inability to pursue the matter further, and the assessee approached the present counsel, who after examining the records, filed the appeal with the delay as stated above.

3.3 The assessee has placed reliance on various judicial precedents including the decision of the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji and Others (167 ITR 471), wherein it has been held that a liberal approach should be adopted while considering applications for condonation of delay and that substantial justice should prevail over technical considerations. Reliance is also placed on other decisions of the Hon'ble High Courts and the Tribunal where substantial delays have been condoned when sufficient cause was shown.

3.4 The Id. DR on the contrary opposed to condone the delay but left the issue at the discretion of the Bench.

4. We have carefully considered the rival submissions and perused the materials available on record. The explanation offered by the assessee indicates that she was facing serious medical issues in the family and thereafter the unfortunate demise of her daughter. The sequence of events as narrated in the affidavit does not suggest any deliberate or intentional delay. There is no material brought on record by the Revenue to show that the delay was mala-fide or that the assessee stood to gain by filing the appeal belatedly.

4.1 The law on the issue is well settled that the expression "sufficient cause" employed in the statute should receive a liberal construction so as to advance substantial justice. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. In the present case, the assessee has demonstrated reasonable cause explaining the delay and the same

appears to be bona-fide. Considering the totality of the facts and circumstances of the case and following the ratio laid down by the Hon'ble Supreme Court and various High Courts, we are of the view that the delay of 210 days in filing the present appeal deserves to be condoned. Accordingly, the delay in filing the appeal is condoned. The appeal is admitted for hearing on merits.

5. The assessee in the appeal memo has raised multiple grounds and sub grounds which are numbered as Ground Nos. 1 to 8.

6. The **Ground Nos. 1, 2, 7 & 8** of the assessee's appeal are general grounds and do not require any adjudication. Hence the same are hereby dismissed as infructuous.

7. Likewise, **Ground No. 6** of the assessee's appeal is in respect of levy of interest under section 234A, 234B and 234C of the Act which are consequential in nature and does not require any sperate adjudication. Hence, the same is dismissed accordingly.

8. The assessee, through **Ground No 3 and 4** of the appeal, has challenged the validity of the assessment order passed under section 147 of the Act on account notice issued under section 148 of the Act being bad in law as well as on account of the order passed in violation of principle of natural justice. Whereas through Ground No. 5, the assessee challenged the sustainability of the addition made on merit.

9. Before going into legal grounds raised by the assessee, we first proceed to adjudicate the issue raised by the assessee in **Ground No. 5** of the appeal on the merit.

10. The facts in brief are that the assessee is an individual who has not filed return of income under the provision of section 139 of the Act for the year under dispute. The information available with the AO revealed that during the year the assessee has purchased agricultural land for sum of Rs. 15,95,000/- only. Hence, a notice under section 148 of the Act was issued to the assessee to initiate income escaping assessment under section 147 of the Act. In response the assessee filed return of income declaring income at NIL.

10.1 Further the assessee during the assessment proceedings submitted that she is a homemaker and does not have any source of income. Her husband, Shri K S Mahesh Shetty is into the business of material supply and wine shop and having income from agricultural activity, has purchased impugned agricultural land in her name. The impugned agricultural property along with the sources of acquisition has been disclosed by her husband in his income tax return for the A.Y. 2016-17 in respect of which the assessment has already been completed by the department. In support, the assessee furnished the copy of receipt and payment account of her husband along with the copy of the assessment order.

10.2 The AO going through the materials provided by the assessee observed that her husband Shri K S Mahesh Shetty in the receipt and payment account has shown agricultural receipt from his wife for Rs. 3.5

lakh. However, the assessee has not declared impugned receipt in her return of income. Hence, a query was raised in this regard through notice under section 142(1) of the Act.

10.3 In response, the assessee submitted that land admeasuring 1 acer was purchased in her name in the year 2005 as well as 3 acer 15 guntas in the year under consideration. From these agricultural lands, the assessee earned income of Rs. 3.5 lakh which she contributed to the hotchpot of family and her husband accounted for the same in his receipt and payment account. The same not disclosed in her return of income filed under section 148 of the Act under the impression of agricultural income being exempted from income tax.

10.4 However, the AO did not accept the explanation furnished by the assessee. The AO found that the assessee has not provided the necessary evidence and required details such type of crop, extent of land used for particular crop, yield, expenses incurred, gross receipt and mode of receipt etc. in support of agricultural income. The AO also observed that as per the earlier submission of the assessee, the property in the year under consideration was purchased on 30-03-2016 i.e. end of the year. Accordingly, the AO held that the assessee failed to explain the genuineness of agricultural income through direct evidence. Hence the AO treated the same as income from other sources and levied tax as per the provision of section 115BBE of the Act.

11. The aggrieved assessee preferred to file an appeal before the learned CIT(A)/NFAC.

12. The learned CIT(A) dismissed the assessee's appeal without going into merit as the assessee during the appellate proceeding failed to reply to the hearing notices as well as failed to make submission in support of grounds of appeal raised.

13. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

14. The learned AR before us besides reiterating the assessee's submission during the assessment, argued that the assessee should be provided with the benefit of the basic exemption limit and rebate under section 87A of the Act. The learned AR contended considering the basic exemption limit and rebate 87A of the Act the addition made and demand raised is not sustainable.

15. The learned DR, on the other hand, relied upon the orders of the lower authorities. It was contended that the assessee failed to substantiate the claim of agricultural income with cogent evidence such as details of crop pattern, yield, expenses incurred and sale proceeds. Therefore, the AO was justified in treating the same as income from other sources. The learned DR accordingly supported the addition made by the AO and sustained by the learned CIT(A).

16. We have heard the rival contentions of both the parties and perused the materials available on record. The undisputed facts are that the reassessment proceedings under section 147 of the Act were initiated on the basis of information that the assessee had purchased agricultural land for a sum of Rs. 15,95,000/- only. The assessee had not

originally filed a return of income under section 139 of the Act. In response to notice issued under section 148 of the Act, the assessee filed a return declaring NIL income. During the reassessment proceedings, it was explained that the land was purchased out of the funds of her husband, who is engaged in business and agricultural activities, and that the investment in the agricultural land along with the source was duly reflected in the husband's return of income for the relevant assessment year. Copies of the receipt and payment account of the husband and his assessment order were furnished before the AO.

16.1 It is important to note that no addition has ultimately been made by the AO on account of unexplained investment in agricultural land, which was the very basis for reopening under section 147 of the Act. The AO did not disturb the source of investment in land. Instead, the AO made the addition of Rs. 3,50,000/- by treating the agricultural income of the assessee shown in the husband's receipt and payment account, attributed to the assessee, as "income from other sources" taxable under section 115BBE of the Act on the ground that the assessee did not furnish complete details such as crop pattern, yield, expenses and supporting evidence.

16.2 On merits, we find that the assessee had explained that she owned agricultural lands, including land purchased in earlier years and the land purchased during the year, and that agricultural income of Rs. 3.5 lakh was earned therefrom and contributed to the family pool. The explanation that agricultural income was not disclosed in the return filed under section 148 of the Act because it was understood to be exempt income, cannot be brushed aside lightly. Agricultural income is exempt

under section 10(1) of the Act. Therefore, mere non-disclosure of agricultural income in the return does not ipso facto lead to the conclusion that the same is non-genuine or taxable.

16.3 The AO rejected the agricultural income mainly for want of detailed evidence such as crop-wise details and expenses. However, it is not the case of the AO that the assessee did not own agricultural land. Nor is there any finding that the land was incapable of cultivation. The agricultural income declared is Rs. 3.5 lakh, having regard to the extent of land held by the assessee, the figure does not appear to be abnormal or excessive on the face of it. In rural and semi-rural settings, agricultural operations are often carried on in a traditional manner without maintenance of elaborate books of account. In such circumstances, absence of detailed documentary evidence alone cannot be the sole basis to treat agricultural income as income from other sources, especially when the ownership of land is not in dispute.

16.4 Further, the AO has invoked section 115BBE of the Act without establishing that the income falls within the scope of sections 68 to 69D of the Act. In the present case, the addition is not on account of unexplained cash credit or unexplained investment. It is merely a case where agricultural income was not accepted for want of detailed proof. Therefore, bringing such income under section 115BBE is not legally sustainable.

16.5 Even otherwise, the learned AR has rightly contended that the assessee is entitled to the benefit of the basic exemption limit and rebate under section 87A of the Act. The AO has proceeded to tax the

entire sum without considering the statutory benefit available to an individual assessee. The computation of tax without allowing the basic exemption limit is contrary to law. Accordingly, on merits, we hold that the addition of Rs. 3,50,000/- made by treating agricultural income as income from other sources is not sustainable and is liable to be deleted.

16.6 Without prejudice to the above, it is a settled position of law that when reassessment proceedings are initiated under section 147 of the Act for a specific reason, and the AO does not make any addition on that very issue, then he cannot sustain additions on other issues which come to his notice during the course of reassessment. The jurisdiction under section 147 of the Act is founded upon the formation of belief regarding escapement of income on a particular issue. If, after reopening, no addition is made on the ground for which the assessment was reopened, the very foundation of jurisdiction fails.

16.7 In the present case, the reassessment was initiated on the ground of purchase of agricultural land for Rs. 15,95,000/-. However, no addition has been made on that issue. The investment in land was accepted. The addition has been made on an entirely different issue, namely alleged non-genuine agricultural income of Rs. 3.5 lakh.

16.8 In such circumstances, once the reason recorded for reopening does not survive in the reassessment order, the AO cannot independently assess or reassess other income which comes to his notice during the proceedings. The addition made on an issue unconnected with the recorded reasons, without making any addition on

the main issue, is not sustainable in law. Therefore, even on this count, the addition cannot be sustained.

16.9 In view of the above discussion, the addition of Rs. 3,50,000/- is deleted. Consequently, the reassessment order to that extent is set aside and the grounds raised by the assessee on merits are allowed.

17. As we have allowed deleted the addition on merit, the legal grounds challenging the validity of reopening, in view of our decision on merits and the alternative legal finding, do not require separate adjudication. Hence the Ground Nos. 3 & 4 are hereby dismissed as infructuous. Accordingly, the grounds of appeal of the assessee are hereby partly allowed.

18. In the result, the appeal of the assessee is hereby partly allowed.

Order pronounced in court on 5th day of March, 2026

Sd/-

(KESHAV DUBEY)
Judicial Member

Sd/-

(WASEEM AHMED)
Accountant Member

Bangalore
Dated, 5th March, 2026

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Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore