

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

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

ITA No. 2499/Bang/2025
Assessment Year: 2016-17

Mr. Nagaraju Muniyappa, No.24, Kaggalipura Post, Kanakapu Bade Katte, Bangalore – 560 082.	Vs.	The Income Tax Officer, Ward – 7(2)(5), Bangalore.
PAN – ANRPN 1675 Q		
APPELLANT		RESPONDENT

Assessee by	:	Shri Siddesh Gaddi, CA
Revenue by	:	Shri Subramanian, JCIT (DR)

Date of hearing	:	25.02.2026
Date of Pronouncement	:	05.03.2026

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The present appeal has been instituted by the assessee against the order of the Ld. CIT(A) passed u/s 250 of the Act dated 13.08.2025

2. The assessee in its memo of appeal has raised as many as 26 grounds which we for the sake of brevity and convenience are not inclined to reproduce here.

3. The core issue before us is whether the Id. CIT(A), in a best judgment assessment u/s 144, can partially set aside one issue to the

AO while simultaneously confirming other additions — or whether he must either decide all issues on merits or set aside the entire assessment.

4. The brief facts of the case are that the assessee is an individual who did not file his return of income for the relevant assessment year. The case of the assessee was selected for scrutiny under the Risk Management Strategy formulated by the CBDT. The selection was triggered on account of certain high-value transactions viz. sale of immovable property amounting to ₹86,82,500 and cash deposits in the bank account aggregating to ₹15,00,000.00 only. In the present case, the AO was not satisfied with the explanation furnished about the source of cash deposits. According to him, the assessee failed to provide proper and satisfactory evidence to establish the source of the total cash deposit of ₹15,00,000 in the Andhra Bank account.

4.1 Similarly, upon perusal of the Andhra Bank account of the assessee, the AO observed that the assessee had received interest income amounting to ₹97,625. However, the said interest income had not been offered to tax in the return of income filed for the relevant assessment year.

4.2 Regarding the sale of the immovable property, the AO, held that the amount of ₹86,82,500 is taxable under the head "Short Term Capital Gains", thereby proposing a variation to that extent in the returned income. Finally, the total income was determined by the AO at ₹1,02,80,125 after making the addition of the amount discussed above.

Aggrieved by the order of AO, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A), regarding the cash deposits of ₹15,00,000 treated observed that the assessee had failed to furnish proper evidence to explain the source of the cash deposit. It was noted that the assessee did not produce a cash book or supporting documentary evidence to substantiate the availability of cash. With regard to the plea of accumulation over a period of time, the Ld. CIT(A) observed that the assessee was unable to clearly state or recollect the exact dates of receipt of such amounts. Accordingly, the addition of ₹15,00,000 made by the AO was upheld and sustained.

4.3 Coming to the addition made on account of sale of immovable property, the Ld. CIT(A) observed that the relevant details regarding the nature and character of the land were not properly submitted before the AO and, therefore, the same could not be examined at the assessment stage. In the interest of justice, this issue was set aside to the file of the AO for fresh examination after providing due opportunity to the assessee.

4.4 With regard to the addition of ₹97,625 treated as income from other sources on account of interest income, the Ld. CIT(A) observed that the assessee had not furnished any proper explanation or material to rebut the findings of the AO. Accordingly, this addition was also upheld.

5. Aggrieved by the order of the Ld. CIT(A), the assessee preferred an appeal before us.

6. The Ld. AR before us submitted that though the assessment was framed u/s 144 of the Act and the Ld. CIT(A) had power under the proviso to section 251(1)(a) to set aside the assessment, such power has not been exercised in accordance with the statutory scheme. The Ld. CIT(A) either ought to have adjudicated all the issues on merits or to have set aside the entire assessment for fresh consideration. The partial restoration of one issue, while sustaining the others, amounts to improper exercise of appellate jurisdiction. It was therefore prayed by the assessee that the impugned order of the Ld. CIT(A) be set aside to this extent and appropriate relief be granted.

7. The learned DR, on the contrary, supported the order of the learned CIT(A). It was submitted that the CIT(A) is empowered under section 251(1)(a) to confirm, reduce, enhance or annul the assessment and that the power to set aside under the proviso does not curtail his authority to decide issues independently. It was contended that if one issue required factual verification, the Ld. CIT(A) was justified in restoring that issue while deciding the remaining issues on merits.

8. We have carefully considered the rival submissions of both the parties and examined the materials available on record. Section 251(1)(a) of the Act provides that in an appeal against an order of assessment, the Commissioner (Appeals) may confirm, reduce, enhance or annul the assessment.

8.1 By virtue of the amendment effective from 01.10.2024, a specific proviso has been inserted empowering the Commissioner (Appeals), in cases where the assessment has been framed u/s 144 of the Act, to set

aside the assessment and refer the case back to the AO for making a fresh assessment.

8.2 The legislative intent behind the amendment, as evident from the explanatory memorandum, is to address best judgment assessments where substantial factual verification is required due to non-compliance at the assessment stage, and to enable a fresh examination by the AO in such cases.

8.3 In the present case, it is not in dispute that the assessment was framed u/s 144 of the Act. Therefore, the Ld. CIT(A) was vested with the statutory power to set aside the assessment.

8.4 However, we note that the proviso to section 251(1)(a) uses the expression "set aside the assessment and refer the case back to the AO for making a fresh assessment." The scheme of the provision contemplates setting aside of the assessment as a whole, thereby enabling a comprehensive re-examination by the AO. It does not envisage a piecemeal or selective remand of one isolated issue while simultaneously confirming other additions arising out of the same assessment order.

8.5 In the present case, the Ld. CIT(A) has upheld the additions relating to cash deposits and interest income but has set aside only the issue relating to capital gains to the file of the AO. This results in an appellate order, where part of the assessment stands affirmed and part is restored for fresh adjudication. Such an approach, in our considered

view, does not align with the legislative scheme of section 251 of the Act as amended.

8.6 If the Ld. CIT(A) was of the view that the best judgment assessment required fresh verification, the appropriate course under the proviso was to set aside the assessment in its entirety for a fresh assessment. Alternatively, if sufficient material was available on record, the Ld. CIT(A) ought to have adjudicated all the issues on merits. A selective remand of a single issue, while sustaining others, amounts to improper exercise of the statutory power. Accordingly, the impugned order of the Ld. CIT(A), for setting aside only the issue of capital gains while confirming the additions relating to cash deposits and interest income, cannot be sustained. Hence, the order of the Ld. CIT(A) is set aside, and the matter is restored to the file of the AO for fresh adjudication in accordance with law. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

9. In the result, the appeal is allowed for statistical purposes.

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

/ vms /

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