

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

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

ITA No.3092/Bang/2025
Assessment Year: 2017-18

Sri Durga Commericals, No.43/U2, 4 <sup>th</sup> Cross, Lorry GDown street, APMC Yard, Yeshwanthpur, Bangalore – 560 022.  <b>PAN – ACVFS 6185 R</b>	Vs.	The Income Tax Officer, Ward – 2(1)(3), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Smt. Suman Lunkar, CA
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of hearing	:	25.02.2026
Date of Pronouncement	:	05.03.2026

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The present appeal has been filed by the assessee against the order passed by the NFAC, Delhi vide order dated 07/06/2024 for the assessment year 2017-18.

2. There is a delay of 485 days in filing the present appeal before the Tribunal. The assessee has filed a petition for condonation of delay along with an affidavit explaining the reasons for such delay. We have considered the submissions made in the condonation petition and

perused the materials placed on record. It is seen that the appellate order under section 250 was passed on 07.06.2024. The appeal before the Tribunal ought to have been filed within the prescribed time. However, the present appeal has been filed on 29.12.2025, resulting in a delay of 485 days.

3. The assessee has explained that it was not aware of the passing of the order by the learned CIT(A). The registered email ID available on the income-tax portal was that of the earlier auditor, namely Shri H. Sateesh Shetty. The secondary email ID was also that of the said earlier auditor. It is stated that both email IDs were being accessed by the earlier auditor and the assessee was under the bona fide belief that the appeal filed before the CIT(A) was still pending. It is further submitted that the earlier auditor expired on 09.05.2021 and the assessee was not aware that the registered email ID on the portal had not been updated. It is also stated that no SMS or separate communication was received by the assessee regarding the passing of the appellate order.

3.1 It is further explained that only when a hearing notice dated 22.12.2025 was received in connection with the appeal proceedings, the assessee made enquiries through the present auditor. On verification of the portal, it was found that the appellate order had already been passed in June 2024. Immediately thereafter, steps were taken to file the present appeal before the Tribunal, which came to be filed on 29.12.2025.

3.2 From the facts placed before us, we find that the delay has occurred due to circumstances beyond the direct control of the assessee.

The explanation offered appears to be reasonable and supported by an affidavit. There is nothing on record to suggest that the delay was deliberate or that the assessee derived any benefit by filing the appeal belatedly.

3.3 It is well settled that while considering an application for condonation of delay, a liberal approach is required to be adopted so as to advance substantial justice, provided the explanation shows reasonable cause. In the present case, the cause shown by the assessee constitutes sufficient cause within the meaning of law. Accordingly, we are satisfied that the assessee was prevented by reasonable and sufficient cause from filing the appeal within the prescribed time. Hence, the delay of 485 days in filing the appeal is hereby condoned.

4. The grounds of appeals raised by the assessee are interconnected and effectively the issue raised by the assessee is that the learned CIT(A) erred in confirming the addition made by treating the cash deposit as unexplained credit and erred in confirming the disallowances of vehicle maintenance expenses.

5. The facts in brief are that the assessee firm is a wholesale trader of Rice at AMPC Yard at Yeshwanthpur Bangalore. For the year A.Y. 2017-18, the assessee filed return of income declaring total income at Rs. 4,64,410/- which was selected for scrutiny under CASS.

5.1 From the bank statement furnished by the assessee during the assessment proceeding, the AO found that during the demonetisation period i.e. during 9<sup>th</sup> November 2016 to 31<sup>st</sup> December 2016, cash

deposits for sum of Rs. 3,03,55,153/- was made. Out of the impugned cash deposit a sum of Rs. 55,79,000/- was made in demonetised currency/specified banking note-SBN (Rs. 500 & 1000) whereas the closing cash balance available with the assessee on the evening of the announcement of demonetisation was of Rs. 29,26,151/- only. Hence SBN deposit made by the assessee exceeded the available cash balance by Rs. 26,52,849/- only.

5.2 The AO observed that as through Gazette notification of Ministry of Finance bearing No. 2653 and through central government gazette notification No. 2652 dated 8<sup>th</sup> November 2016, the legal tender of the SBN was withdrawn and no person was allowed to use such SBN for normal business activity or store such SBN for further use except deposit the same into bank and limited exchange with bank and payment for emergency services like hospital, rail reservation etc.

5.3 Accordingly, the AO was of the view that the assessee was not allowed to accept or transact in SBN from 9<sup>th</sup> November 2016 onward for depositing the same into bank. Thus, the AO issued show cause notice proposing to treat the excess deposit of SBN of Rs. 26,52,849/- as unexplained credit. The assessee failed to make reply. Therefore, the AO treated the same as unexplained credit under section 68 of the Act and added to the total income of the assessee.

5.4 In addition to the above, the AO found that the assessee firm in the profit & loss account has claimed vehicle maintenance expenses of Rs. 91440/-. However, no vehicle was shown into assets side of the balance sheet. Hence the impugned expenses of vehicle maintenance for

Rs. 91,440/- was disallowed and added to the total income of the assessee.

6. The aggrieved assessee preferred an appeal before the learned CIT(A). The assessee is the statement fact filed with the appeal claimed that the excess deposit of SBN was out of payment received from sundry creditor after announcement of demonetisation.

6.1 Likewise, regarding the vehicle maintenance expenses it was claimed that the partner of the assessee firm Shri Rajendra Gupta owned a vehicle which was used for the day-to-day affair of the business of the firm apart from personal necessity of the partner. Accordingly, 2/3<sup>rd</sup> of the expenditure incurred was claimed for deduction.

6.2 However, the learned CIT(A) found that the assessee has not responded to the hearing notices issued during appellate proceedings. The Id. CIT(A) noted that sufficient opportunities were given to the assessee during assessment as well as appellate proceedings to explain the nature and source of the excess cash deposit. However, no satisfactory explanation, supporting evidence, bank statements, books of account, or stock-wise details of sales were furnished to substantiate the claim that the deposits represented sales made during the demonetization period.

6.3 The learned CIT(A), while dealing with the issue of cash deposits made during the demonetization period, made specific observations regarding transactions in demonetised currency after 8<sup>th</sup> November 2016. It was noted that with effect from 09.11.2016, the old currency

notes ceased to be legal tender as per the Government notification. Therefore, any business transactions carried out in such invalid currency were not recognized in law.

6.4 It was further observed that carrying out business in old currency, which had already been declared invalid, could not be treated as a lawful commercial transaction. The appellate authority held that the use of such invalid currency undermines legal and financial discipline and cannot, by itself, justify the source of deposits unless supported by proper evidence.

6.5 In the absence of documentary proof to show that the cash deposited after 8<sup>th</sup> November 2016 was backed by genuine and recorded business transactions, the explanation of the assessee was rejected and the addition was confirmed.

6.6 With regard to the disallowance of vehicle maintenance expenses of Rs. 91,440, the Id. CIT(A) observed that as per the schedule of fixed assets, no vehicle was owned by the firm during the year, and no proper explanation or documentary evidence was furnished. Therefore, the disallowance of the entire amount was also upheld. Consequently, the appeal of the assessee was dismissed.

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

8. The learned AR before us submitted that both the assessment order and the order of the learned CIT(A) were passed ex parte without

proper consideration of the facts of the case. He submitted that the assessee is a wholesale trader of rice and the cash deposits during the demonetisation period were out of regular business receipts. It was contended that the excess SBN deposit of Rs. 26,52,849 was not unexplained, but represented cash received from customers in the ordinary course of business. The AR submitted that due to communication gaps and non-receipt of notices on the registered email ID, the assessee could not effectively participate in the proceedings. He further stated that the books of account, cash book, stock records, sales details and bank statements are available and the assessee is ready to produce the same for verification.

8.1 With regard to the disallowance of vehicle maintenance expenses of Rs. 91,440, the learned AR submitted that the partner of the firm owned a vehicle which was used for business purposes and proportionate expenditure was claimed in the profit and loss account. It was prayed that the matter may be restored to the file of the Assessing Officer to examine the evidence and adjudicate the issue afresh in the interest of justice.

9. On the other hand, the learned DR supported the orders of the Assessing Officer and the learned CIT(A). It was submitted that sufficient opportunities were granted during assessment as well as appellate proceedings, but the assessee failed to furnish any explanation or documentary evidence. The DR contended that the excess deposit of demonetised currency clearly exceeded the available cash balance and, in the absence of supporting material, the Assessing Officer was justified in invoking section 68 of the Act.

9.1 With respect to the vehicle maintenance expenses, the learned DR submitted that no vehicle was shown in the balance sheet of the firm and no documentary evidence was produced to justify the claim. Therefore, the disallowance was rightly confirmed. However, the DR fairly submitted that if the Tribunal is inclined to grant one more opportunity to the assessee, appropriate directions may be issued to ensure proper verification and cooperation by the assessee.

10. We have considered the rival submissions of both the parties and perused the materials available on record. It is an admitted position that the assessment was completed ex parte, as the assessee did not respond to the show cause notice issued by the AO in respect of the excess deposit of demonetised currency and the claim of vehicle maintenance expenses. The addition under section 68 of the Act was made solely on the basis that the SBN deposits exceeded the closing cash balance as on 08.11.2016 and no explanation was filed. Similarly, the vehicle maintenance expenses were disallowed on the ground that no vehicle was reflected in the balance sheet.

10.1 It is further evident from the record that the learned CIT(A) also proceeded to dispose of the appeal ex parte, as the assessee did not respond to the hearing notices issued during appellate proceedings. The learned CIT(A) confirmed the addition primarily on the ground that no supporting evidence, books of account, stock details, or bank statements were produced to substantiate the claim that the deposits represented business receipts and similarly, upheld the disallowance of vehicle maintenance expenses for want of supporting material.

10.2 Thus, both the assessment order as well as the order of the learned CIT(A) have been passed without effective participation of the assessee and without examination of any supporting evidence on merits. Before us, the learned AR submitted that the assessee is engaged in wholesale trading of rice and that the deposits were out of business receipts. It was further submitted that relevant books of account, stock records, bank statements and supporting documents are now available and the assessee is willing to produce the same if one more opportunity is granted. With regard to vehicle maintenance expenses, it was submitted that the partner owned a vehicle which was used for business purposes and proportionate expenditure was claimed.

10.3 Considering the totality of facts and circumstances, we are of the view that the matter requires fresh examination. The issue relating to excess SBN deposit involves verification of books of account, cash book, stock records, sales register, bank statements and other contemporaneous evidence. Likewise, the claim of vehicle maintenance expenses requires verification of ownership details and business use. These factual aspects have not been examined by the lower authorities due to non-compliance on the part of the assessee. Hence, in the interest of substantial justice and fair play, we deem it appropriate to set aside the impugned order of the learned CIT(A) and restore the issues relating to addition under section 68 on account of excess SBN deposit of Rs. 26,52,849/-, and disallowance of vehicle maintenance expenses of Rs. 91,440/-, to the file of the Assessing Officer for fresh adjudication.

10.4 The Assessing Officer shall afford reasonable and adequate opportunity of being heard to the assessee and shall decide the issues

afresh in accordance with law after examining the books of account and other evidence that may be produced by the assessee. The assessee is directed to cooperate fully and furnish all necessary documents without seeking unnecessary adjournments. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in court on 5<sup>th</sup> day of March, 2026

Sd/-

**(KESHAV DUBEY)**  
Judicial Member

Sd/-

**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 5<sup>th</sup> 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