

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

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

ITA Nos. 2332-2334/Bang/2025
Assessment Years : 2018-19, 2019-20 & 2020-21

Shri Venkatachalapathy Ramamurthy Shekhar, No. 186/33, 5 th Main Road, 14 th Cross, Vyalikaval Extn S.O, Bangalore North – 560 003. PAN: ASRPS5587R	Vs.	DCIT, Central Circle 1(3), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Ms. Sahana T H M Advpcate
Revenue by	:	Shri Subramanian S– JCIT SR DR

Date of Hearing	:	16-02-2026
Date of Pronouncement	:	30-03-2026

ORDER

PER PRASHANT MAHARISHI, VICE – PRESIDENT

1. Assessee Shree Venkata Chalapathi Ramamurthy Shekhar [Appellant] submitted appeals for the assessment years 2018-19, 2019-20, and 2020-21 against the Appellate Order issued by the Commissioner of Income Tax (Appeals) - 11, Bengaluru [The Id. CIT (A)] dated 5th August 2025. The consolidated Appellate Order, pertaining to all three years, dismissed the Appeals filed against reassessment orders under Section 147 read with Section 143(3) of the Act due to non-compliance.
2. The brief facts of the case indicate that Assessee serves as the president of One Members Credit Cooperative Society namely **Arjun Souhadra patina Sahakarai Niyamitha**. No return of income was filed for the Assessment Years 2018–19 and 2020–21. For the Assessment Year 2019–20, however, the

Assessee submitted a return of income on 29th September 2020, declaring an income of ₹10,78,600.90/-.

3. A search under Section 132 of the Income Tax Act was conducted on the cooperative society and the Assessee on 2nd December, 2021. Following this search, cases related to the relevant assessment years were also examined because of the findings from the search. The proceedings were reopened by issuance of a notice under section 148 of the Income Tax Act for the relevant assessment years in appeal before us. Assessee was required to file a return of income which was filed in response to reopening notices.
4. The Assessee did not file a return of income for the assessment year 2018-19 initially. However, in response to a notice issued under Section 148 of the Act, he declared an income of Rs. 10,15,600/- in the return filed on 25 February 2023.
5. For the assessment year 2019-20, the initial return of income was filed at ₹10,78,690/- on 29th September 2020. In response to the reopening notice, a return reflecting the same amount was submitted on 29th December 2023.
6. For the assessment year 2020-21, no original return of income was filed by him; however, a return was subsequently submitted in response to a notice under Section 148 of the Act on 31st July 2023, reporting an income of ₹ 7,68,930/-.
7. The assessment proceedings were initiated, and upon review of the details provided, for Assessment Year 2018–19, a protective addition of ₹2,00,60,732/- was made under section 56 of the Act. For Assessment Year 2019–20, an addition of ₹1,77,40,623/- was made, with a similar adjustment of ₹3,94,30,000/- also assessed for AY 20-21. Additional adjustments were carried out as appropriate.
8. The assessment for Assessment Year 2018–19 determined the total income at ₹2,38,63,614/-; for Assessment Year 2019–20, ₹2,10,00,562/-; and for Assessment Year 2020–21, ₹4,06,42,012/-. The aggregate additions made by

the learned Assessing Officer for the respective years were ₹2,28,48,014/-, ₹1,89,31,872/-, and ₹3,98,73,082/-.

9. Assessee aggrieved with the assessment order preferred an Appeal before the Id. CIT (A), he issued notices on 28th March 2025, 16th June 2025, and 17th July 2025. But all of them remained not complied with, therefore, Appellate Order was passed dismissing the appeals confirming the action of the learned Assessing Officer.
10. Assessee is in appeal before us for all these 3 assessment years. The learned authorised representative, Miss Sahana THM, Advocate submitted the return synopsis. She submitted that the all the notices were issued to the primary email ID mentioned. However, those emails were inadvertently not noticed by the Appellant as they were diverted to the spam folder of the registered email account. He became aware of this communication only upon receipt of the Appellate Order in physical form, after which the email inbox was thoroughly examined, and the notices were in this spam folder. It was stated that the CIT(A) physically served last notice and same notices were duly forwarded by the Appellant to its authorised representative for necessary compliance. However, owing to inadvertence and circumstances beyond control of the Appellant, the learned authorised representative did not file any response. She submitted that non compliance was neither deliberate nor intentional but occurred due to the above bonafide reasons.
11. She further stated that most of the addition made in the hands of the Appellant are on protective basis. Substantive additions are made in the hands of the cooperative society. Therefore, even otherwise the learned CIT(A) could not have confirmed the protective edition in the hands of the appellant. Therefore, this appellate order also suffers from these defects.
12. She further referred to the Assessment Order and stated Appellant is merely Chairman of the above Cooperative Society, and the income belongs to the Cooperative Society and not to the Appellant. Merely because Secretary of the society stated in the statement that real beneficiary is Assessee, these additions were made. For these reasons only Assessing Officer has made

addition on protective basis. She submitted that most of the addition is made on protective basis and on substantive basis presumably in the hands of the above society, though not mentioned. If the substantive additions are sustained in the hands of the cooperative society, no protective additions could have been made in the hands of the Appellant. Further, without recording a finding that the substantive addition has been retained in the hands of the cooperative society or are deleted, in the hands of that cooperative society or whatever is the result of Appeal filed by that cooperative society is ascertained, the learned CIT(A) could not have passed an Appellate Order in the case of the Appellant confirming the protective addition. She further stated that in the appellate proceedings, there is neither a confirmation of substantive addition nor protective addition on that basis. The additions are required to be either confirmed or deleted based on merits only. It is not for the Appellate Authority to say that it is not sure that in whose hands the income is chargeable to tax, so protective addition can continue. This would be applicable only at the stage of assessment and not thereafter. Therefore, she submitted it that the appellate Order suffers from this defect also.

13. She further candidly added that if the matter is remanded back to the first Appellant Authority, Appellant promises to extend full cooperation and make necessary submission to substantiate his case on its merits.
14. The learned departmental representative supported the order of the CIT(A) and submitted that when the appellant does not appear before the learned CIT(A), there is no fault which can be found with the Appellate Order.
15. We have carefully considered the rival contention and perused the orders of the learned lower authorities. Admittedly, in this case, the search took place under Section 132 of the Income Tax Act in the case of one cooperative society and Appellant along with its secretary. Consequent to the search, assessment of the Appellant was reopened. The brief description of the fact shows that there was certain cheque discount income were found. In the bank account of the society. Secretary of the society stated that Appellant is real beneficiary of the cheque discounting income. So, the major edition was made in the hands of the

Assessee on protective basis because of the search. Secretary stated that societies books of accounts are not maintained by him but would be available with Appellant or Auditors. Based on such statement, it was found that income from cheque discounting business of ₹2,00,60,732/- is brought to tax in the hands of Appellant stating that he may be treated as the ultimate beneficiary of the cheque discounting income. The addition was made in the hands of the appellant on protective basis but there is no reference in the assessment order the fact in whose hands substantive additions are made and why. Consequently, all the additions for all these 3 years are mostly made on that basis only.

16. We find that addition has been made in the hands of the Appellant on protective basis. Only because the Secretary of the Trust has stated that the ultimate beneficiary of the income of the society is the Appellant. Therefore, the Assessing Officer was confronted with the fact whether the income is chargeable to tax in the hands of this Appellant or in the hands of that Society. The learned Assessing Officer made addition in the hands of the Appellant on protective basis. Protective addition could be made in the hands of the Appellant rightly when there is a doubt in the mind of the learned Assessing Officer that in whose hands the income is chargeable to tax. In this present case, the Assessing Officer was saddled with the identical question and opted to tax the above amount in the hands of the Appellant on protective basis. The learned Assessing Officer though did not mention that on what basis the protective addition is made in the hands of the Appellant and substantive addition is made in whose case and why. The learned CIT(A) merely confirmed the action of the learned Assessing Officer without ascertaining the fact that whether the income is chargeable to tax in the hands of the Appellant or not. He did not give any finding. Also, whether the addition made in the hands of the cooperative society has been retained on substantive basis or not. In fact, he should have examined all these details even if the Appellant did not appear before him that whether the income has been taxed in the hands of the right person or not. In absence of these findings, we find that order of the CIT(A) is not sustainable. It is also a fact that Appellant did not represent or respond to the notices issued by the learned CIT(A). It is also interesting to note that in

form number 35, where it is required to be communicated by the Appellant that whether he would like to receive the notices through email or not, Assessee did not give any reply. Therefore, for this reason also, if the notices are sent to the Assessee through email, those are not in conformity with the declaration made in form number 35 filed before him.

17. Because (i) the learned CIT(A) did not give any reason for upholding the addition in the hands of the appellant on protective basis., (ii) Assessee did not make representation before him, (iii) the notices were issued through email. which is not the preference of Assessee, (iv) only one of the Notice was physically sent by him which remained unresponsive, resulting in to absence of proper opportunity of hearing (V) valid reason for failure to respond the notices, (v) absence of any facts available on record to decide the issues, (vi) no details placed by AO, CIT(A) about substantive additions, we restore the whole Appeal back to the file of the learned CIT(A) to decide it afresh after ascertaining whether the addition has been retained in the hands of the other party on substantive basis or not and then decide whether the addition is required to be made in the hands of the Appellant or retained on protective basis. The Appellant is also directed to comply with the notices issued by the learned CIT(A) and submit the requisite detail before him within 90 days from the date of receipt of this order. The learned CIT(A) may consider the explanation, obtain remand report, if any required for verification of. Fact of the substantive addition, if any, made in the hands of any other Assessee and then decide the issue afresh.
18. In the result, we allow all three appeals for Statistical purposes with above directions.

Order pronounced in the open court on 30th March, 2026.

Sd/-
(KESHAV DUBEY)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
VICE-PRESIDENT

Bangalore,
Dated, the 30th March, 2026.

TNTS

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore