

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

**BEFORE SHRI BALAKRISHNAN S., ACCOUNTANT MEMBER
&
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.:278/Bang/2026
Assessment Year :2015-2016

Arun Kudur, APT No.101, Pearl Paradise, Near Trinity Meadows, Bellandur, Bengaluru, Karnataka 560010 PAN: BGCPK8781R	Vs.	Income Tax Officer Circle 3(3)(1) HMT Bhavan, Ganganagar, Bengaluru
APPELLANT		RESPONDENT

Assessee by	:	Shri. Ravish Rao AR
Revenue by	:	Sri. Balusamy N - JCIT

Date of Hearing	:	15-04-2026
Date of Pronouncement	:	21-04-2026

ORDER

PER BALAKRISHNAN S., ACCOUNTANT MEMBER

1. This appeal filed by the assessee against the order of CIT(Appeals) Mumbai vide DIN Order No. ITBA/APL/S/215/2025-26/1082767015(1) dated 19.11.2025 for the assessment year 2015-16 arising out of the order passed under Section 154 dated 24th June 2022.
2. Brief facts of the case are that the assessee being an individual did not file the return of income for the assessment year 2015-16. The case was reopened under Section 147 of the Act after obtaining approval of the

competent authority. As per the information available with the department it was noticed that the assessee derived salary income amounting to Rs. 89,59,107/- and other income amounting to Rs. 1,03,714/-. The Assessing Officer in the absence of the return of income treated the above income as escaping assessment for the assessment year 2015-16 and thereafter issued a notice under Section 148 on 30th March 2021. The assessee failed to respond notice under Section 148 of the Act. Thereafter notice under Section 142(1) of the Act dated 23.06.2021 was issued and served on the assessee. Subsequent to the migration to Faceless Assessment Scheme another notice under Section 142(1) of the Act dated 21.11.2021 along with detailed questionnaire was issued and served on the assessee. Assessee is non-compliant to this notice. Further notices under Section 142(1) of the Act was again issued on 06.01.2022 and 2nd February 2022 was served on the assessee. Since the assessee remained non-compliant to the notices issued the learned AO framed the assessment to the best of his judgment under Section 144 of the Act by making addition of Rs. 90,62,821/-.

3. On being aggrieved with the order of the learned AO the assessee carried the matter in appeal to the learned CIT-A. Before the learned CIT-A the assessee submitted that the e-mail sent by the Assessing Officer were got stored in spam folder and hence pleaded that he could not respond to the notices. He further submitted before the learned CIT-A that the assessee also filed the rectification petition before the learned AO under Section 154 of the Act to consider the following:

- 1) *Tax deduction at source by employer*
- 2) *Exempt salary under Section 10*
- 3) *Tax on employment under Section 16(iii)*

- 4) *Deduction on interest on Saving Bank Account under Section 80TTA and*
 - 5) *Deduction under Section 80C, and also loss relating to income from house property.*
4. The learned CIT-A on perusal of the rectification application under Section 154 of the Act noticed that assessee has prayed for considering the TDS amount only to be adjusted against the tax liability. Accordingly he also noticed that the Assessing Officer has passed an order under Section 154 of the Act stating that the tax credit will be granted to the assessee after the migration of challan. The learned CIT-A noticed that since the assessee has not raised any other issues before the learned AO, therefore dismissed the appeal of the assessee.
5. On being aggrieved with the order of the learned CIT-A assessee is in appeal before us by raising **five grounds**:
- 1) *The impugned order under Appeal is for the AY 2015-16 and the same is opposed to law and facts of the case for the contentions raised here under.*
 - 2) *The learned Assessing Officer has erred in law by not considering the facts available in Form 16 issued by the employers, which was available in the departmental portal.*
 - 3) *The learned Assessing Officer has erred in law by not considering the Form 16 issued by the employers, although he has considered the document Form 25AS for adopting the income of the Appellant there from.*
 - 4) *The learned Assessing Officer failed to appreciate, an important fact, that the Form 26AS is the outcome of the Form 16 uploaded by the employers. The learned Assessing Officer should have considered Form 16, also, which is base document for considering the Salary to the*

extent exempt u/s 10, Tax on employment u/s 16(iii), 80TTA –Interest on saving Bank accounts, Deduction u/s 80C and Loss relating to Income from House Property which was available in the Form 16, which was available on department records.

- 5) *For the submissions made here in above and such other submissions and Grounds that may be urged during the Appellate proceedings this Honorable court may be pleased to consider the Form 16 issued by employers and award the deductions available therein.*
6. The only issue emanating from the above grounds is with respect to the Assessing Officer not considering the:
- a) *Tax deduction at source by employer*
 - b) *Exempt salary under Section 10*
 - c) *Tax on employment under Section 16(iii)*
 - d) *Deduction on interest on Saving Bank Account under Section 80TTA and*
 - e) *Deduction under Section 80C, and also loss relating to income from house property.*
7. At the outset the learned AR pleaded that learned AO erred in not considering the above exemptions and deductions which is available in Form 16 and also in Form 26AS. He pleaded that assessee has inadvertently omitted to claim this exemption while filing the return of income. Since the Form 16 discloses the above exemptions and deductions he prayed that one more opportunity shall be provided to the assessee to furnish the detail before the learned AO to substantiate the exemptions and deductions claimed by the assessee. *Per contra* the learned DR submitted that the assessee failed to file any return of income for the assessment year 2015-16 and has also not filed any response to notice under Section 148 of the Act. Therefore he

submitted that as per Section 80AC(5) of the Act deduction cannot be claimed in case if the claim is not made while filing the return of income.

8. Heard the rival contentions and perused the material available on record. It was the plea of the learned AR that the assessee has inadvertently omitted to claim the deductions/exemptions while filing the rectification application under Section 154 of the Act. Be that as it may it is trite law that revenue cannot benefit on the ignorance of the assessee by collecting taxes not due to the department. Article 265 of the Constitution of India provides that no tax will be levied or collected except by authority of law. In the instant case the assessee failed to claim the deduction, which is already available in Form 16 issued by the employers, cannot be fatal to the assessee. Moreover the revenue also conceded that the tax deducted at source by the employer and the advance tax payment made by the assessee are reflecting in Form 26AS. In view of the facts and circumstances of the present case as discussed aforesaid we are of the opinion that assessee should be provided one more opportunity to submit the documentary evidences for claiming the directions/exemptions before the learned AO and therefore we remit the matter back to the file of the learned AO for de novo assessment. We also note that learned AR undertook to furnish the documentary evidences before the learned AO without seeking unnecessary adjournments. Thus the grounds raised by the assessee are allowed for statistical purposes.

9. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21st April, 2026.

Sd/-
(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Bangalore,

Dated, the 21st April, 2026.

VM

Copy to:

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

By order

Assistant Registrar,
ITAT, Bangalore