

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

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

<b>ITA No.:294/Bang/2026</b>
<b>Assessment Year :2017-2018</b>

<b>Kiran Enterprises</b> 1 <sup>st</sup> floor, City Complex, JC road, Tumkur, Karnataka 572101 <b>PAN: AADFK3444R</b>	<b>Vs.</b>	<b>Income Tax Officer</b> <b>Ward-1</b> Tumkur
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Ms. Namita Advocate
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 penalty order passed under Section 271 AAC(1) of the Act vide DIN No. ITBA/PNL/F/271 AAC(1/2024-25/1073806746(1)) dated 28<sup>th</sup> February 2025.
2. Briefly stated the facts of the case are that, the assessee affirm, e-filed its Return of income for the assessment year 2017-18 on 21<sup>st</sup> September 2017 admitting the total income of Rs. 68,314/-. The case was selected for limited scrutiny through CASS to verify cash deposits during the year. The Assessing Officer framed the assessment while making an addition of Rs.

1,25,00,000/- as unexplained cash credit under Section 68 of the Act. Thereafter, he proceeded to initiate penalty under Section 271AAC(1) of the Act and levied a penalty of Rs. 8,88,375/- being 10% of the gross tax payable.

3. On being aggrieved by the penalty order of the learned AO assessee carried the matter in appeal before the learned CIT-A. The learned CIT-A being not satisfied with the submissions furnished by the assessee, dismissed the appeal of the assessee. On being aggrieved of the order of the learned CIT(A), the assessee is in appeal before us by raising the **following grounds**:

- 1) *That the order of the learned lower authorities is in so far prejudicial to the interest of the appellant is bad and erroneous in law considering the circumstances of the case.*
- 2) *That the learned Commissioner of Income tax (Appeals) erred in law and on facts in deciding the appeal ex-parte when the quantum appeal is pending before CIT(A) and has not attained finality and therefore, ought to have kept penalty proceedings pending or at abeyance till the disposal of quantum appeal by CIT(A) on merits.*
- 3) *That the notice u/s. 271 AAC of the Act is bad in law, without jurisdiction and barred by limitation.*
- 4) *That the entire proceedings u/s. 271 AAC of the Act is bad in law and without jurisdiction.*
- 5) *That the learned lower authorities erred in facts and law in levying penalty of Rs. 8,88,875/- u/s. 271 AAC of the Act.*

*6) That the learned lower authorities erred in facts and law in levying penalty on the taxes levied under amended provisions of section 115BBE of the Act even though such amended provisions are applicable from 01.04.2017*

4. At the outset the learned AR submitted that the quantum appeal which is being the basis for levying penalty is being challenged before the learned CIT-A and the proceedings are pending before him as per the directions of the Tribunal in ITA 288/BANG/2024. She therefore pleaded that until the final findings of the quantum appeal has been decided by the learned CIT-A the penalty appeal does not survive.
5. Per contra the learned DR relied on the orders of the Revenue authorities.
6. We have heard the rival contentions and perused the material available on record. It is noted that the Tribunal in ITA No. 288/Bang/2024 for the assessment year 2017-18 has remanded the matter back to the learned CIT-A for fresh consideration. According to learned AR the matter is still pending before the learned CIT-A for disposal. In these circumstances we find merit in the arguments of the learned AR that until the quantum of the appeal is disposed of by the CIT-A on merits the penalty appeal does not have any legs to stand and will not survive. We are therefore are of the opinion that the penalty appeal be remitted back to the file of the learned CIT-A, to be clubbed with the appeal pending before him as per the directions of the Tribunal. Accordingly the grounds raised by the assessee stands allowed for statistical purposes.
7. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 21<sup>st</sup> April, 2026.

Sd/-  
(SOUNDARARAJAN K.)  
JUDICIAL MEMBER

Sd/-  
(BALAKRISHNAN S.)  
ACCOUNTANT MEMBER

Bangalore,

Dated, the 21<sup>st</sup> April, 2026.

\*VM\*

Copy to:

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

By order

Assistant Registrar,  
ITAT, Bangalore