

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH: BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT

ITA No.152/Bang/2025
Assessment year: 2017-18

Smt. Shobha, Propx. S C Veeranna & Co., APMC Yard, Tiptur – 572 201. <b>PAN: AVVPS 1256N</b>	Vs.	The Income Tax Officer, Ward 1, Tiptur.
APPELLANT		RESPONDENT

Appellant by	:	Shri Gokul, Advocate
Respondent by	:	Shri Ganesh R. Ghale, Standing Counsel for Revenue.

Date of hearing	:	05.06.2025
Date of Pronouncement	:	25.06.2025

**ORDER**

*Per Prashant Maharishi, Vice President*

1. This appeal is filed by Smt. Shobha, Proprietrix of S.C. Veeranna & Co., Tiptur [the assessee/appellant] against the appellate order passed by the Addl./Jt. CIT(Appeals)-2, Noida [ld. CIT(A)] dated 30.11.2024 wherein the appeal filed by the assessee against the assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [the Act] by the ITO, Ward 1, Tiptur [ld. AO] dated 05.12.2019 was dismissed as time barred as delay of 4 months was not condoned.

2. The assessee is aggrieved and has preferred the following grounds of appeal: -

- “1. The Order of the learned Commissioner passed under section 250 of the Act is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.
2. The Appellant denies being assessed for income of Rs. 8,74,320/- as against the actual total income 3,04,230/- in the facts and circumstances of the case.
3. The learned Commissioner of Income-Tax (Appeals) erred in dismissing the appeal by not condoning the delay in filing the appeal within a statutory time despite the fact that the reason for delay was explained thoroughly in the facts and circumstances of the case.
4. The learned Commissioner of Income-tax (Appeals) erred in passing the order without giving the sufficient opportunity of being heard thus violating the principles of natural justice rendering the order liable to be cancelled on the facts and circumstances of the case.
5. The learned Commissioner of Income-tax (Appeals) ought to have held that the learned Assessing Officer grossly erred in holding the sum of Rs.5,70,000/- as unexplained cash credits u/s 69A of the Act despite the fact that the detailed submissions are made that such deposits arose from business activity in the facts and circumstances of the case.
6. The learned Commissioner of Income-tax (Appeals) ought to have held that levying interest under section 234A and 234B of the act is bad in law and facts and circumstances of the case.
7. The learned Commissioner of Income-tax (Appeals) ought to have held that the penalty proceedings-initiated u/s 271AAC(1) of the Act is contrary to law on the facts and circumstances of the case.

8. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.
  9. In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”
3. The brief facts of the case show that assessee, an individual, filed a return of income for AY 2017-18 on 12.10.2024 at a total income of Rs.3,04,230. The case of the assessee was selected for limited scrutiny for verification of cash deposits and cash withdrawals during the year. Notice u/s. 143(2) was issued on 9.8.2018. Further notice u/s. 142(1) was also issued on 26.11.2018. The assessee responded by furnishing computation of total income, balance sheet and bank account statement. The AO found that in the bank account of the assessee with Canara Bank, Tiptur A/c. 616 assessee has deposited a sum of Rs.5,70,000 on 10.11.2016 during the demonetization period. The assessee explained that the above sum is balance after payment to the farmers. The AO did not accept the above explanation. A notice u/s. 133(6) was issued to the Bank wherein the above information was obtained. On rejection of the explanation of assessee, the total income was assessed at Rs.8,74,230 in assessment order passed u/s 143(3) of the Act dated 05.12.2019 where addition of Rs.5,70,000 was made u/s. 69A r.w.s. 115BBE of the Act.
4. Against the assessment order assessee filed an appeal on 12.05.2020. The reason for the delay mentioned in Form 35 was that assessment order was served late on the assessee and the CA was pre-occupied for

some time and after that there was lockdown which caused the delay. The ld. CIT(A) issued several notices. The assessee explained in the letter dated 8.4.2021 the reason for delay is late receipt of assessment order and busyness of the CA and subsequent COVID-19 lockdown. It appears that on 29.4.2020 submission of details was also made before the ld. CIT(A). On merits also, the assessee argued that addition was unjustified. However, the ld. CIT(A) dismissed the appeal of the assessee as time barred and infructuous.

5. The ld. AR submits that the appeal of the assessee should have been admitted by the ld. CIT(A) by condoning the delay which is for sufficient cause. Even on merits of the case, it was submitted that complete books of account, bank statement and confirmation from the parties were submitted before the lower authorities, but the addition is made. It was further stated that the same was out of sale receipts and after payment to farmers, etc. The assessee explained that she is a commission agent of Kopra. Therefore, on the merits, addition deserves to be deleted.
6. The ld. DR vehemently opposed and submitted that assessee failed to explain the delay with sufficient cause and therefore the appeal of the assessee was not admitted. The ld. AO has considered explanation of the assessee, but same was found to be not satisfactory. Therefore, there is no merit in the appeal of the assessee.
7. We have carefully considered the rival contentions and perused the orders of the ld. lower authorities. It is a fact that the assessee is a

commission agent of Kopra. During assessment proceedings it was found that during the demonetization period on 10.11.2016 assessee has deposited a sum of Rs.5,70,000 with Canara Bank in her bank account No.616. The assessee explained that on sale of Kopra after payment to the farmers, the balance amount was deposited in cash in the bank account of the assessee. Assessee also submitted bank statement and cash book. The ld. AO did not accept the reply of the assessee and made addition of Rs.5,70,000 u/s. 69A of the Act as assessee has not furnished cash book and cash flow statement in support of cash deposit. The assessee received an assessment order on 6.2.2020. The order is dated 5.12.2019. The appeal was filed on 12.5.2020. Therefore, based on Form 35, appeal should have been filed within 30 days from the date of receipt of order i.e., before 5.3.2020. The appeal in fact is filed on 12.5.2020. There is no finding in the order of ld. CIT(A) that date of service of order mentioned by the assessee in Form 35 at sl. No. 2(c) is incorrect. Therefore 30 days period starts from that date. It was further stated that the CA of the assessee was pre-occupied and therefore could not file appeal on or before 5.3.2020. Subsequently on 24.3.2020 Govt. of India ordered a nationwide lockdown. Thus, the appeal filed on 12.5.2020 was delayed by 66 days, out of which delay beyond 24.3.2020 is because of COVID lockdown and from 6.3.2020 to 24.3.2020 because of business of the CA. Therefore, as major part of the delay is because of COVID lockdown and only 15 days delay is on account of business of CA, both are beyond the control of the assessee. Therefore, we find that delay

was sufficient cause. The delay computed by the Id. CIT(A) is from the date of the order, whereas according to section 249(2)(b), the time limit for filing of appeal of 30 days commences from the date of service of the order, notice of demand. Therefore, also the Id. CIT(A) was incorrect in computing the length of delay. In view of the above facts, we find that the delay in filing the appeal before the CIT(A) was for sufficient cause, should have been condoned by the Id. CIT(A). Therefore, the order of the Id. CIT(A) is reversed and delay in filing the appeal before the CIT(A) is condoned. As the Id. CIT(A) has not considered the issue on the merits of the case, ground No.3 of the appeal of the assessee is allowed and ground Nos.4 & 5 are restored back to the file of Id. CIT(A) to examine the issue of addition of Rs.5,70,000 as unexplained cash credit u/s. 69A of the Act after granting opportunity of hearing to the assessee.

8. In the result, the appeal filed by the assessee is allowed for statistical purposes as indicated above.

Pronounced in the open court on this 25<sup>th</sup> day of June, 2025.

Sd/-

(PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,  
Dated, the 25<sup>th</sup> June, 2025.

. /Desai S Murthy /

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.