

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

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

ITA No.585/Bang/2025
Assessment Year : 2015-16

Mr. Abdul Jaleel No.1229, Sonappa Garden DJ Halli Bangalore 560 045 PAN NO :AFWPJ2980F	Vs.	ITO Ward 1(2)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Siddesh N Gaddi, A.R.
Respondent by	:	Sri Balusamy N., D.R.

Date of Hearing	:	04.09.2025
Date of Pronouncement	:	24.11.2025

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the ld. CIT(A)/NFAC dated 28.02.2025 vide DIN & Order No.ITBA/NFAC/S/250/2024-25/1073810434(1) for the assessment year 2015-16 passed u/s 250 of the Income Tax Act, 1961 (in short "The Act").

2. The assessee has raised the following grounds of appeal:

1. The impugned order passed by the Learned CIT(A) and AO, to the extent prejudicial to the Appellant, is not justified in law and on the facts and circumstances of the case.
2. The learned CIT(A) has erred in law and on facts in upholding the order of the Learned AO.
3. The learned CIT(A) and AO have erred in law and on facts in passing the orders against the principles of natural justice.
4. The proceedings are time-barred and therefore the Ld.AO/CIT(A) have erred in law and on facts in not quashing the order as bad in law;
5. The learned CIT(A) and AO erred in ignoring the fact that the appellant was a fruit dealer and thereby passing the order without appreciating the background of the Assessee.
6. The learned CIT(A) and AO erred in adding the entire cash deposits as unexplained deposits under sec.68 without reckoning the fact that the appellant had withdrawn the cash.
7. The addition under section 68 of the Act is not tenable as the jurisdictional fact to invoke the same is not present;
8. The Ld.AO/CIT(A) have erred in law and on facts in not appreciating that the Assessee has already disclosed the said income under the head 'Profits and gains from business and profession' and therefore there is no question of bringing it to tax again under section 68 of the Act.
9. The Ld.AO/CIT(A)' action in treating the entire cash deposits amounts to double taxation and therefore bad in law;
10. The Ld.AO/CIT(A) have erred in law and on facts in now allowing benefit of

expenses in calculating total income;

11. The Ld.AO/CIT(A) have erred in law and on facts in not providing the benefit of peak credit/telescoping;
12. The learned CIT(A) and AO erred in not appreciating the fact that the appellant was 67 years old and that he was carrying on his family business, which was started by his late father.
13. The learned CIT(A) and AO erred in treating the entire deposits including cheque deposits as unexplained income u/s.68 of the Act.
14. The learned CIT(A) and AO erred in adding a sum of Rs.1,29,16,984/- whereas the SCN alleged cash deposits of Rs. 1,00,80,000/-;
15. The impugned adjustments being merely based on presumption and surmises are to be deleted.
16. The Ld.AO/CIT(A) have erred in law and on facts in not discharging the secondary onus in a cogent manner by referring to evidences, etc.
17. The order is unreasonably high-pitched for liable to be quashed in its entirety.
18. The Learned CIT(A) and AO have erred in raising demand vide issue of notice under section 156 of the Act.
19. The Learned CIT(A) and AO have erred in fact and in law in levying interest under section 234A and B of the Act.

On the basis of the above grounds and other grounds which may be urged at the time of hearing with the consent of the Hon'ble Tribunal, it is prayed that the order passed under section 147 r.w.s 144 of the Act, as upheld by the CIT(A), be quashed and the relief sought to be granted.

3. Brief facts of the case are that the assessee is a fruit dealer and his regular business is buying seasonal fruits from the farmers

and sell them to the wholesalers. Further, as the trading in fruits are exempted under the Karnataka Value Added Tax, 2003 & GST Act, 2017 and therefore, the assessee was not obligated to obtain registration under the said Act. The assessee operates his business from his residential house and did not maintain any books of accounts for the year under consideration. The assessee even did not file his return of income for the assessment year 2015-16. The case of the assessee was reopened u/s 147 of the Act with the approval of Id. PCIT, Karnataka & Goa Region, Bangalore as per the provisions of section 151 of the Act and accordingly, a notice u/s 148 of the Act dated 31.3.2020 was issued. The reason for the reopening of the case u/s 147 of the Act was that although the assessee did not file his return of income for the Asst. year 2015-16, however, he had made substantial cash deposit of Rs.1,59,30,000/- in his bank accounts. Further, the notice u/s 142(1) of the Act as well as show cause notice was also issued to the assessee to substantiate the sources of cash deposits. During the course of assessment proceedings, the assessee filed his return of income on 25.5.2023 vide acknowledgement no. 169220270250523 and accordingly notice u/s 143(2) of the Act dated 26.5.2023 was also issued to the assessee.

3.1 The assessee during the course of assessment proceedings, submitted that the assessee is not a street vendor and therefore, the provisions of Karnataka Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act & Rules, 2016 are also not applicable. The assessee filed an affidavit before the AO as the assessee was not in possession of any evidence to prove that he is a fruit dealer. Further, during the assessment proceedings, the AR of assessee had uploaded a letter by furnishing the name and address of four parties who have identified that the assessee is a fruit vendor.

3.2 The AO however did not consider the affidavit filed by the assessee due to lack of corroborative evidence and other supportive documents to prove that assessee is a fruit vendor. The AO further observed that the confirming parties were residents of Mysore, whereas, the assessee claimed to be fruit vendor at Bangalore. During the course of the assessment proceedings, the AO also did not accept the confirmation letters filed by the assessee from three parties i.e. Ziyalla, Syed Safeer Ahmed & Devi Karani Sridhar in which they have stated that the assessee Mr. Abdul Jaleel is known to them as a fruit vendor. The reason for not accepting the confirmations was also no corroborative evidence of the assessee being a fruit dealer/vendor was submitted before the AO.

3.3 Further, on going through the bank statement submitted by the assessee, the AO noticed that during the period from 1.4.2014 to 31.3.2015, the assessee had deposited total cash of Rs.1,29,16,984/- which includes cheque deposit amounting to Rs.25,99,984/-. Further, it is also observed by the AO that the assessee had earned total Saving Bank interest income amounting to Rs.76,297/- maintained with SBI & Canara Bank. In view of the above and considering the reply filed by the assessee, the AO treated the entire amount credited in the bank accounts amounting to Rs.1,29,16,984/- as unexplained cash credit and brought to tax u/s 68 of the Act. Further, savings bank interest received amounting to Rs.76,297/- was added under the head "income from other sources" and the also deduction claimed under Chapter VIA u/s 80TTA of Act amounting to Rs.10,000/- was also not allowed to the assessee.

4. Aggrieved by the order of AO passed u/s 147 r.w.s. 144 of the Act, the assessee preferred an appeal before the Id. CIT(A)/NFAC.

5. The Id. CIT(A)/NFAC dismissed the appeal of the assessee by holding that accepting of cash is totally against RBI notification. Further, the assessee had ignored the facts that transactions were not permitted except in limited number of circumstances clearly laid down as per the relevant guidelines. Further, the assessee only claimed about his business nature but he did not clarify about the unexplained cash deposit in 3 bank accounts. Lastly, Id. CIT(A)/NFAC pointed out that the onus was higher on the assessee to explain the cash deposit made which have not been discharged by the assessee.

6. Again, aggrieved by the order of Id. CIT(A)/NFAC, dated 28.2.2025, the assessee has filed the present appeal before this Tribunal. The assessee has also filed a copy of the assessment order passed by AO in his case for the assessment year 2016-17 vide order dated 15.1.2025 passed u/s 147 r.w.s. 144B of the Act, wherein the claim of the assessee to be in the business of fruits had been accepted by the AO by stating to be genuine.

7. Before us, the Id. A.R. of the assessee vehemently submitted that the authorities below grossly erred in ignoring the fact that the assessee is a fruit dealer and the entire cash deposits were made out of the sale proceeds received by the assessee, especially when the Id. AO himself while passing order for the assessment year 2016-17 had accepted the contention of the assessee being in genuine fruit business. Further, Id. A.R. of the assessee vehemently submitted that when assessee had categorically stated that assessee is not maintaining any books of accounts, therefore, the

condition as required for making addition u/s 68 of the Act is not satisfied. Lastly, the Id. A.R. of the assessee submitted that the assessee had declared total income of Rs.8,18,588/- on a total turnover of Rs.92,80,000/- declared by the assessee, which is more than 8% of the total turnover.

8. Ld. D.R. on the other hand supported the order of the authorities below and vehemently submitted that assessee could not produce any evidences before the authorities below to substantiate his claim of being a fruit dealer and accordingly the sources of cash deposits could not be established.

9. We have heard the rival submissions and perused the materials available on record. On going through the assessment order, we take note of the fact that the AO did not accept the contention of the assessee to be a fruit dealer since no corroborative evidence was submitted by the assessee and accordingly held the entire cash deposits of Rs.1,29,16,984/- as unexplained cash credits of Rs.1,29,16,984/- u/s 68 of the Act. The reasons for reopening the case was that the assessee had made cash deposits of Rs.1,59,30,000/-. Further, we observe that a show cause notice dated 05/01/2023 was issued to the assessee as to why assessment should not be concluded by considering the unexplained cash deposits of Rs.1,00,80,000/- u/s 68 of the Act. Finally, the addition was made by the AO by stating that the assessee had deposited total cash of Rs.1,29,16,984/- which includes cheque deposit amounting to Rs.25,99,984/-. We could not understand how the assessee had deposited cash of Rs.1,29,16,984/- when the AO himself admitted the fact that there is also cheque deposits of Rs. 25,99,984/-.

9.1 On going through the order of the Id. CIT(A)/NFAC, we observed that the CIT(A)/NFAC completely misdirected himself in observing that accepting of cash is totally against RBI notification. Further, the Id. CIT(A)/NFAC's observation that the assessee had ignored the facts that transactions were not permitted except in limited number of circumstances clearly laid down as per the relevant guidelines is absolutely illogical as the case of the assessee is relates to assessment year 2015-16 & it is not the case of deposits of cash during the demonetization period.

9.2 We observed that during the course of assessment proceedings, the assessee filed his return of income in response to notice u/s 148 of the Act. The assessee had also submitted the trading & profit and loss account by declaring sale of products amounting to Rs.87,25,500/- & Sale of services amounting to Rs.5,54,500/- & thus declared total gross receipts of Rs.92,80,000/-. The assessee had declared the net profit of Rs.8,18,588/- which includes the saving bank interest of Rs.76,188/-. Thus, we noted that the assessee had declared exact 8% Net Profit $[7,42,400/92,80,000*100]$. We also take a note of the fact that during the course of the assessment proceedings, the assessee filed an affidavit by stating that he is a fruit dealer and his regular business is buying fruits from farmers and sell them to wholesalers. Further, we also take note of the fact that during the course of assessment proceedings, the assessee had also produced names of 4 fruit dealers who have identified the assessee as a fruit dealer. Further, the assessee had also submitted confirmation letters from the three parties i.e. Ziyalla, Syed Safeer Ahmed & Devi Karani Sridhar. The AO discarded all these evidences merely by stating that no corroborative evidences of the assessee being a fruit dealer/vendor is submitted, however we observe that the AO while

passing the assessment order u/s 147 of the Act dated 15.1.2025 in the case of the assessee himself for the AY 2016-17, accepted the fruits business of the assessee to be genuine and therefore, we are of the considered opinion that the business of the assessee as claimed by the assessee to be a fruit dealer appears to be authentic.

9.3 Once we accept the business of the assessee as a fruit dealer, we also accept the submissions of the assessee that all the sales/collections proceeds from his fruit business were deposited in the bank account without any contrary evidence or material brought on record by the AO. Further, we also cannot brush aside the fact that during the period from 1.4.2014 to 31.3.2015, the assessee had deposited total of Rs.1,29,16,984/- which includes cheque deposit amounting to Rs.25,99,984/- as observed by the AO. Therefore, in the absence of any books of accounts, and taking into consideration the net profit turnover ratio as declared by the assessee, we direct the AO to treat the entire total deposits of Rs.1,29,16,984/- (Cash as well as Cheques) as Gross receipts from his fruit business and accordingly, direct the AO to compute the net profit @8% as admitted by the assessee in his trading & profit & loss account. Further, we also direct the AO to treat the savings bank account interest as “income from other sources” and allow the deduction u/s 80TTA amounting to Rs.10,000/- as eligible to be claimed by the assessee. It is ordered accordingly.

10. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 24th Nov, 2025

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 24th Nov, 2025.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
- 5 Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**