

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 42/VIZ/2016  
(Asst. Year : 2010-11)**

Dr. S. Kondala Rao,  
C/o Samuel Nagadesi, CA,  
408, Sri Ramakrishna Towers,  
Beside Image Hospital,  
Nagarjuna Nagar, Ameerpet,  
Hyderabad, Telangana.

vs. ITO, Ward-2(2),  
Visakhapatnam.

PAN No. AIVPS 7536 C  
(Appellant)

(Respondent)

Assessee by : Shri Samuel Nagadesi, FCA.  
Department By : Shri Deba Kumar Sonawal, CIT DR

Date of hearing : 10/09/2018.  
Date of pronouncement : 12/09/2018.

**ORDER**

**PER V. DURGA RAO, JUDICIAL MEMBER**

This appeal by the assessee is directed against the order of Commissioner of Income Tax-1, Visakhapatnam, dated 23/03/2015 for the Assessment Year 2010-11.

**2.** There is a delay of 257 days in filing of this appeal. The Authorized Representative for the assessee has submitted that the delay is due to not aware of the 263 proceedings undertaken by

the Id. Commissioner and he came to know only after order is received and prayed that delay may be condoned.

**3.** On the other hand, Id. Departmental Representative strongly opposed for condonation of delay.

**4.** We have heard both the sides, perused the material available on record and orders of the authorities below.

**5.** In this case, there is a delay of 257 days in filing the appeal. The case of the assessee is that he has not aware about the 263 proceedings. He came to know only after receipt of the order passed by the Id. Commissioner under section 263 of the Act dated 23/03/2015. It is clear from the order of the Id. Commissioner dated 23/03/2015 that a show-cause notice was issued to the assessee on 12/03/2014 and after receiving the show-cause notice, the assessee's representative Sri VLG Gayatri Prasad, CA appeared before the Id. Commissioner. The Id. Commissioner after considering the submissions made by the assessee's CA, passed the order under section 263 of the Act. Therefore, the submissions of the assessee about non-awareness of 263 proceedings are contrary to the material available on record. We find that the assessee failed to explain sufficient cause for condonation of delay and the explanation given by the assessee is contrary to the finding given by the Id. Commissioner

by order dated 23/03/2015. Therefore, delay cannot be condoned and the same is dismissed in *limine*.

**6.** In the result, appeal filed by the assessee is dismissed.

Order Pronounced in open Court on this 12<sup>th</sup> day of Sep., 2018.

Sd/-  
**(D.S. SUNDER SINGH)**  
**Accountant Member**

sd/-  
**(V. DURGA RAO)**  
**Judicial Member**

**Dated :12<sup>th</sup> Sep., 2018.**

**vr/-**

*Copy to:*

1. *The Assessee - Dr. S. Kondala Rao, C/o Samuel Nagadesi, CA, 408, Sri Ramakrishna Towers, Beside Image Hospital, Nagarjuna Nagar, Ameerpet, Hyderabad, Telangana.*
2. *The Revenue - ITO, Ward-2(2), Visakhapatnam.*
3. *The CIT-1, Visakhapatnam.*
4. *The D.R., Visakhapatnam.*
5. *Guard file.*

By order

(VUKKEM RAMBABU)  
Sr. Private Secretary,  
ITAT, Visakhapatnam.