

**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 Nos. 61/VIZ/2019
(Asst. Year : 2013-14)**

Sakalabaktula Vaikunta Rao, vs. ITO, Ward-2,
Prop. Sri Tirumala Modern Srikakulam.
Rice Mill, K.T. Road, Palasa,
Srikakulam.

PAN No. AADHS 7593 D
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari, Advocate.
Department By : Shri D. Manoj Kumar, Sr.DR

Date of hearing : 05/11/2019.
Date of pronouncement : 08/11/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-9, Hyderabad, dated 27/11/2018 for the Assessment Year 2013-14.

2. In this case, there is a delay in filing the appeal before the Id. CIT(A). According to the assessee, the delay is only 98 and according to the Id. CIT(A) the delay is 280 days. The assessee

has filed a petition for condonation of delay, wherein he explained the delay as under:-

1. *The appellant is 72 years old. On receipt of penalty order, the appellant contacted an auditor Sri V. Mohana Rao of Srikakulam on 05/04/2016 and entrusted the matter of filing of appeal to the above said auditor.*
2. *The said auditor had dodged the matter for nearly 3 months. The next time when he consulted the auditor on 07/07/2016, the appellant came to know that the appeal was still not filed.*
3. *The appellant discussed this matter with his close relative Sri Suryanarayana of Visakhapatnam who advised him to come to Visakhapatnam with the order. Sri Suryanarayana made enquiries and took the appellant to the senior tax consultant's office at Visakhapatnam on 25/07/2016 and entrusted the matter to him. Without further delay, the appeal was filed on 05/08/2016.*
4. *Thus, the delay of 98 days in filing the appeal was neither intentional nor deliberate and was on account of reasons beyond the control of the appellant.*

Therefore, it is prayed that the said delay of 98 days may kindly be condoned and appropriate orders may be passed in the interests of substantial justice."

3. The Id.DR strongly opposed for condonation of delay.

4. We have gone through the condonation application filed by the assessee and find that there is a sufficient cause to condone the delay. Therefore, delay is condoned and the order passed by the Id. CIT(A) is set aside and direct him to pass the orders on merits of the case in accordance with law after giving proper opportunity of hearing to the assessee. Thus, this appeal filed by the assessee is allowed for statistical purpose.

5. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order Pronounced in open Court on this 08th day of Nov., 2019.

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

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 08th November, 2019.

vr/-

Copy to:

1. *The Assessee – Sakalabaktula Vaikunta Rao, Prop. Sri Tirumala Modern Rice Mill, K.T. Road, Palasa, Srikakulam.*
2. *The Revenue – ITO, Ward-2, Srikakulam.*
3. *The Pr.CIT-2, Visakhapatnam.*
4. *The CIT(A-9, Hyderabad.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

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