

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**  
(Through web-based video conferencing platform)

**BEFORE SHRI N.K. CHOUDHRY, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**I.T.A. No. 06/VIZ/2020  
(Asst. Year : 2016-17)**

Rayapureddy Nareen Babu, vs. Income Tax Officer  
D.No. 6-52, Pedakoneru Street, Ward-2(3), Guntur.  
Mangalagiri, Guntur District.

PAN No. BAMPR 1472 G (Appellant) (Respondent)

Assessee by : None.  
Department by : Smt.Suman Malik, Sr.DR

Date of hearing : 24/06/2021.  
Date of pronouncement : 24/06/2021.

**ORDER**

**PER N.K. CHOUDHRY, JUDICIAL MEMBER**

This appeal has been preferred by the Assessee against the order dated 15/11/2019 impugned herein passed by the Id. Commissioner of Income Tax (Appeals)-1 [for short, "Id.Commissioner"], Guntur u/sec. 250(6) of the Income Tax Act, 1961 (hereinafter referred to as "Act") for the A.Y. 2016-17.

**2.** In this case, the appeal was filed before the Id. Commissioner with a delay of 123 days and reasons for delay have been narrated in Form No.35 at column Nos. 14 & 15, however the Id. Commissioner did not get impress for the reasons given by the Assessee and dismissed the appeal in *limine* on the ground that the ARs of the appellant were made aware the fact of not enclosing any evidence for the reasons given for delay in filing of appeal will lead to non-admission of the same. There was no evidence in support of the reasons given.

**4.** Having heard the parties and perused the material available on record. As the facts are already narrated by the Ld. Commissioner in its order therefore for the sake of brevity not been repeated herein.

**4.1** From the record it appears that though the Assessee submitted the reasons for delay and requested for condonation of the same in form No. 35 itself, however did not file proper application and supporting affidavit, which may be due to lack of guidance and/or inadvertence. The Ld. Commissioner mainly observed that the Assessee failed to file the supporting affidavit and evidence in support of plea seeking condonation of delay.

The Assessee for explaining the delay stated in form no. 35 to the effects that the Assessee filed its return of income through a consultant who was not conversant with tax procedure and thereafter the Assessee himself represented the case before the Assessing Officer, however due to insufficient knowledge about the

tax procedure such representation could not be made properly. Thereafter receiving the order online on 20-12-2018, the Assessee could find another tax consultant at his place during the month of February, 2019 who suggested that appeal needs to be filed, consequently the appeal fee was paid on dated 09-02-2019. In order to prepare the appeal, the necessary documents and information were not available with the Assessee and also the tax on original return of income was not paid. The claims of deduction made under Chapter-VIA were not considered in the assessment. The sources of funds through loans needed information and supporting documents. In order to file a proper appeal, another consultant from Hyderabad was engaged. Finally, the tax as per revised return could be paid on 18/04/2019 without which appeal could not be filed. All the facts culminated into a delay in filing the appeal for a period of 123 days.

**5.** Without going into the merits of the case, we may observe that though the Appellant explained the reasons for delay in form no. 35 itself, however failed to file proper affidavit and evidence in support of its reasons before the Id. Commissioner, which may be due to lack of knowledge or guidance therefore for the ends of justice, we deem it appropriate to remand this case to the file of the Id. Commissioner for decision afresh while affording reasonable opportunity(s) to the Assessee for filing appropriate application and supporting affidavit evidence of reasons for delay.

**6.** In the result, appeal filed by the Assessee stands allowed for statistical purpose.

Order Pronounced in open Court on this 24<sup>th</sup> day of June, 2021.

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

sd/-  
**(N.K. CHOUDHRY)**  
**Judicial Member**

**Dated: 24<sup>th</sup> June, 2021.**  
**vr/-**

*Copy to:*

1. *The Assessee - Rayapureddy Nareen Babu, D.No. 6-52, Pedakoneru Street, Mangalagiri, Guntur District.*
2. *The Revenue -, ITO, Ward-2(3), Guntur.*
3. *The Pr.CIT, Guntur.*
4. *The CIT(A)-1, Guntur.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

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