

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISA KHAPATNAM BENCH, VISA KHAPATNAM**

**श्री दुव्वूरु आरएल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखासदस्य के समक्ष  
BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A. No. 106/VIZ/2024  
(निर्धारण वर्ष/ Assessment Year: 2017-18)**

<b>Padma Minnakuri</b> D.No.26-20-317 10 <sup>th</sup> Line, Sivaram Nagar Guntur 522004, Andhra Pradesh  [PAN: BDLPM7530E]	v.	<b>The Asst. CIT - Circle-1(1)</b> Guntur - 522001 Andhra Pradesh
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व / Assessee Represented by	:	Shri MV Prasad, AR
राजस्व का प्रतिनिधित्व / Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.09.2024
घोषणा की तारीख/Date of Pronouncement	:	25.09.2024

**आदेश /ORDER**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee against the order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter in short "Ld.CIT(A)"] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1057705542(1) dated 06.11.2023 for the A.Y.2017-18

arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 10.12.2019.

2. At the outset, it is noticed from the appeal record that there is a delay of 79 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. AR drew our attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under:

*"1. I, Minnakuri Padma, resident of Guntur, Andhra Pradesh hereby solemnly state and declare that an appeal has been instituted by the appellant before Hon'ble Income Tax Appellate Tribunal, Visakhapatnam on 14-03-2024 against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appellate Centre, Delhi for the Asst. Year 2017-18.*

*2. The order of the Learned Commissioner of Income Tax (Appeals) was passed on 06-11-2023 and therefore, the appeal should have been instituted within 60 days from receipt of such order ie., on or before 05-01-2024.*

*3. But the appeal was filed on 16-03-2024 with a delay of 71 days (131 days - 60 days).*

*4. The reasons for such delay are submitted as under:*

*A. The appellant is an individual earning income from trading of live stock viz., sheep by purchase and sale in local mandis. The business made by the assessee is an unorganized sector.*

*B. The appellant is not well educated and hence do not have knowledge of operation of system and also operation of mail etc., Hence do not know about the receipt of the appellate order of the Hon'ble CIT(Appeals).*

*C. The appellant do not have e mail id and the e mail id of erstwhile auditor is being used for any online correspondence with the IT Portal.*

*D. When she has contacted the present auditor, they have advised her to contact such erstwhile auditor and find out the latest position of the appeal and then only she could observe that the*

*appeal has been disposed off by the CIT(Appeals) exparte which resulted in dismissal due to non compliance to various notices.*

*E. She immediately approached the present auditor and filed the appeal before the Hon'ble ITAT. All these circumstances lead to delay of 68 days in filing the appeal.*

*F. Therefore, due to such above reasons and also due to inadequate knowledge about the I.T. Provisions, the entire process has caused delay in filing the appeal in time.*

5. *As there was no malafide intention and delay was only due to non observation of receipt of the appellate order of the Learned Commissioner of Income Tax (Appeals) and also due to improper knowledge about the I.T Provisions to appeal. Due to such reasons only the appellant was prevented from filing of the appeal in time. Therefore, it is requested that as the delay is not intentional, the delay of 71 days occurred in filing of appeal may kindly be condoned and appeal may kindly be admitted for rendering substantial justice.*

**Prayer:**

*In view of the above submissions, it is earnestly requested with humbleness that the delay occurred in filing of the appeal is unintentional and not out of any negligence and it is only misfortune of the appellant in not preferring the appeal in time due to lack of knowledge. Therefore, the delay occurred may please be considered for condonation and appeal may kindly be admitted in order to meet substantial justice.”*

3. On perusal of the contents of the affidavit filed by the assessee as well as the submission of the Ld. AR, we find that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time limit with a delay of 79 days. Therefore, we hereby condone the delay of 79 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

4. Brief facts of the case are that the assessee being an individual filed her return of income for the A.Y. 2017-18 on 07.10.2017 admitting the total income of Rs.15,34,040/-. Subsequently, the case was selected for scrutiny under CASS

and statutory notices under section 142(1) and 143(2) of the Act were issued and served on the assessee for the limited purpose of examining the issue of “high value cash deposits during the year reported in the case of the assessee whereas both profit before interest and tax and returned income are low”. In response, assessee uploaded relevant information as called for by the Assessing Officer. Assessing Officer rejected the contentions of the assessee and made addition of Rs.42,67,000/- under section 69A of the Act being the difference of cash deposits and cash withdrawals in the assessee’s bank account.

5. On being aggrieved by the order of the Assessing Officer, assessee filed an appeal before Ld. CIT(A). Ld. CIT(A) provided various opportunities to the assessee and since assessee did not respond, Ld. CIT(A) dismissed the appeal of the assessee.

6. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

*“1. The learned CIT (Appeals) is erred in facts and law while passing the order.*

*2. The Learned CIT(Appeals) is not justified in confirming the addition of Rs.42,67,000/- representing the cash deposits made into the Bank account held by the appellant as unexplained money u/s.69A r.w.s. 115BBE of the I.T.Act.*

*3. The Learned CIT(Appeals) is not justified in adjudicating the appeal on the technical grounds that there was no compliance to the notices issued from time to time. The CIT(Appeals) would have afforded another opportunity of being heard.*

*4. The Learned CIT(Appeals) would have adjudicated the case on the factual grounds instead of dismissing merely on technical grounds.*

*5. On the facts and circumstances of the case, the Ld. CIT(Appeals) ought to have appreciated that the Assessing Officer is not justified in making the addition towards cash deposits without considering the cash book uploaded during the course of scrutiny proceedings which reflected the opening balance of cash and sales of live stock.*

*6. On the facts and circumstances of the case, the Ld. CIT(Appeals) ought to have appreciated the Assessing officer is not justified in making the addition without considering the modus operandi followed in this nature of trade by comparing with earlier year Bank account also.*

*7. On the facts and circumstances of the case, the Ld. CIT(Appeals) ought to have considered that the Assessing Officer has completed the Assessment without issue of show cause notice which is against the natural justice.*

*8. On the facts and circumstance of the case, the Ld. CIT(Appeals) ought to have appreciated that the Assessing Officer has not considered the fact of opening cash balance as per the ITR filed for the Asst Year 2016-17 and current year income which has been utilized for the deposits in the Bank.*

*9. On the facts and circumstances of the case, the Ld. CIT(Appeals) ought to have appreciated that the Assessing Officer is not justified in making the addition without observing the fact that the net of sales and purchase of live stock was shown as income and the sales have been utilized for the deposits in the Bank account.*

*10. The Appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal.”*

7. At the outset, Ld. Authorised Representative [hereinafter “Ld.AR”] argued that the assessee could not prosecute the appeal before the First Appellate Authority and pleaded that in the interest of justice assessee may be provided one more opportunity to represent the case before Ld. CIT(A). He therefore, pleaded that file may be remitted back to the Ld. CIT(A).

8. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the orders of the Revenue Authorities.

9. We have heard both the sides and perused the material available on record and orders of the lower authorities. It is an undisputed fact that even though Ld.CIT(A) has provided various opportunities, assessee was non-compliance in prosecuting the appeal before the Ld. CIT(A). However, considering the prayer by the Ld.AR following the principles of natural justice, one more opportunity of being heard shall be provided to the assessee and in this connection and the issue is being remitted back to the file of the Ld. CIT(A) for fresh adjudication. Needless to say, that the assessee shall cooperate with the proceedings before First Appellate Authority without seeking any unnecessary adjournments. The Ld. CIT(A) is directed to decide the case on merits with the material available on record, after providing one more opportunity of being heard to the assessee.

10. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 25<sup>th</sup> September, 2024.

Sd/-

(दुव्वूरु आरएल रेड्डी)

(DUVVURU RL REDDY)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated : 25.09.2024

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य /ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Padma Minnakuri**  
D.No.26-20-317  
10th Line, Sivaram Nagar  
Guntur 522004, Andhra Pradesh
2. राजस्व / The Revenue : **The Assistant Commissioner of Income Tax,**  
**Circle-1(1)**  
Guntur - 522001  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्ड फ़ाईल / Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam