

**आयकर अपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम**

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

**श्री के नरसिम्हा चारी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**  
BEFORE SHRI K NARASIMHA CHARY, HON'BLE JUDICIAL MEMBER &  
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER  
**(Through Hybrid Hearing)**

आयकर अपील सं./ I.T.A. No.156/Viz/2024  
(निर्धारण वर्ष / Assessment Year : 2016-17)

Sambasiva Rao Muppera, Guntur. PAN: DCDPM0224C (अपीलार्थी/ Appellant) अपीलार्थी की ओर से/ Assessee by प्रत्यार्थी की ओर से / Revenue by	Vs.	Income Tax Officer, Ward-2(1), Guntur. (प्रत्यर्थी/ Respondent) Sri M.V. Prasad, AR Dr. Aparna Villuri, Sr. AR
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सुनवाई की तारीख / Date of Hearing	:	07/11/2024
घोषणा की तारीख/Date of Pronouncement	:	25/11/2024

**ORDER**

**PER S. BALAKRISHNAN, Accountant Member :**

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ["Ld. CIT(A)-NFAC"] in DIN & Order No. ITBA/NFAC/S/250/2023-24/1061768020(1), dated 29/02/2024 arising out of the order passed U/s. 147 r.w.s 144 of the Income Tax Act, 1961 ["the Act"] for the AY 2016-17.

2. Briefly stated the facts of the case are that the assessee, an individual, filed his return of income on 29/03/2018 for the AY 2016-17 declaring a total income of Rs. 3,49,250/-. The assessment proceedings in the case of the assessee were initiated U/s. 147 of the Act and accordingly notice U/s. 148 of the Act, dated 22/03/2021 was issued to the assessee. However, the assessee did not file his return of income for the AY 2016-17 in response to the notice U/s. 148 of the Act. On verification of the information available with the Department, the Ld. AO noticed that during the FY 2015-16 relevant to the AY 2016-17, the assessee made cash deposits to the tune of Rs. 1,19,92,500/- into his SB account with Canara Bank, Penumaka of Indias, Mangalagiri and an amount of Rs. 34,80,000/- was deposited on a single day on 17/04/2015. On being asked, the assessee submitted before the Ld. AO that he is an agriculturist and deriving income from his 3 Acres of agricultural land and also on sale of milk. The assessee further submitted that he is also deriving net annual income of Rs. 2 lakhs from cultivation of Chillies crop and accumulated net savings of Rs. 12 lakhs from agricultural income. The assessee also submitted that he has received sale consideration of Rs. 13,41,000/- on sale of agricultural land in the month of March, 2015 along with his

brother. The assessee further submitted before the Ld. AO that his relatives Smt. Meruboina Saraswathi and Thota Venkateswara Rao had kept cash of Rs. 6 lakhs and Rs. 8 lakhs respectively for the purpose of purchase of agricultural lands and thus, the assessee accumulated cash on hand of Rs. 39,80,000/-. The assessee also submitted that out of the said amount of Rs. 39,80,000/- certain amount was utilized for the purchase of agricultural land and the balance amount of Rs. 34,80,000/- was deposited into his savings bank account and the same was withdrawn from time to time for the purpose of purchasing agricultural lands. However, the Ld.AO did not consider the submissions of the assessee and observed that the assessee has not explained the cash deposits made during the AY under consideration along with proper supporting documentary evidences. Accordingly, notices U/s. 142(1) of the Act dated 11/11/2021; 24/12/2021 and 11/01/2022 were issued to the assessee and sought for the assessee's explanation. Further, the Ld. AO also issued notices to the bank authorities as per the provisions of section 133(6) of the Act. However, the neither the assessee nor the bank authorities furnishd any information as called for by the Ld.AO. Therefore, the Ld. AO issued a show cause notice dated 23/03/2022 was issued in the form of draft

assessment order and in response to the show cause notice, the assessee submitted his reply. On perusal and examination of the assessee's reply, the Ld. AO observed that the same is not satisfactory and therefore, in the absence of any submissions / details of source of cash deposits made into the assessee's bank account, the amount of Rs. 1,19,92,500/- is being added to the to the total income of the assessee as unexplained money U/s. 69A r.w.s 115BBE of the Act. Thus, the Ld. AO determined the total income of the assessee at Rs. 1,23,41,750/- against the returned income of Rs. 3,49,250/- and passed the assessment order U/s. 147 r.w.s 144B of the Act, dated 30/03/2022. The Ld. AO also initiated the penalty proceedings U/s. 271(1)(c) of the Act. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC.

3. Before the Ld. CIT(A)-NFAC, while filing the appeal, there was a delay of 126 days. With regard to the belated filing of the appeal, the assessee made submissions before the Ld. CIT(A)-NFAC and sought for condonation of delay by stating that the assessee is an agriculturist and being an illiterate and having no knowledge about the provisions of the Income Tax Act, the assessee could not file the appeal before the Ld. CIT(A)-NFAC

within the prescribed time period. However, the Ld. CIT(A)-NFAC rejected the assessee's plea for condonation of delay by holding that there is no sufficient cause for belated filing of the appeal and accordingly dismissed the assessee's appeal. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The Ld. CIT(A) is erred in facts and law while passing the order.*
2. *The Ld. CIT(A) is not justified in rejecting the delay caused in filing of the appeal without considering the grounds pleaded by the appellant.*
3. *The Ld. CIT(A) is not justified in stating that the reason mentioned is only that the appellant is an agriculturist. He would have appreciated that he is an illiterate thereby not having any proper knowledge about the provisions of the Income Tax Act and its procedures.*
4. *The Ld. CIT(A) would have realized that the appellant is not having any willful negligence in causing delay which is clearly visible on prompt payment of the appeal fees in time. He also would have appreciated that the appellant thought that payment of appeal fees is enough for filing the appeal.*
5. *The Ld. CIT(A) ought to have considered that the AO erred in treating the various deposits into the bank account amounting to Rs. 1,19,92,500/- as unexplained money U/s. 69A of the Act.*
6. *The Ld. CIT(A) ought to have appreciated that the AO initiated the proceedings U/s. 147 of the Act is on borrowed satisfaction and hence would have treated such satisfaction as invalid and consequently the assessment completed is also result in invalid assessment.*
7. *The Ld. CIT(A) ought to have adjudicated the appeal on merits instead of summarily rejecting the appeal on mere technical ground that the delay has not been properly explained to the satisfaction on the ground of justice.*

8. *The appellant craves leave to add, amend, alter, vary and/or withdraw any legal or factual grounds and all the above grounds of appeal.”*

4. At the outset, the Ld. Authorized Representative [AR] submitted that the Ld. CIT(A)-NFAC ought to have considered the explanation of the assessee with respect to the condonation of delay in filing the appeal before him as the assessee was prevented by a reasonable and sufficient cause i.e., being an agriculturist and illiterate, the assessee could not file the appeal within the stipulated time. The Ld. AR further submitted that even though the assessee paid the appeal fees, he was under bonafide belief that the payment of appeal fees itself is enough and the same would be treated as appeal filed before the Ld. CIT(A)-NFAC. The Ld. AR further submitted that the delay in filing the appeal is not on account of negligence or any deliberate act of the assessee. The Ld. AR therefore pleaded that without considering the explanation and the submissions of the assessee, the Ld. CIT(A)-NFAC dismissed the appeal of the assessee by denying the condonation petition filed before him and hence, the matter may be remitted back to the file of the Ld. CIT(A)-NFAC to decide the appeal on merits.

5. On the other hand, the Ld. Departmental Representative [DR] heavily relied on the orders of the Ld. Revenue Authorities. The Ld. DR further submitted that before the Ld. CIT(A)-NFAC, even though there is a delay, the onus is on the assessee to explain each day's delay with proper documentary evidence. The Ld. DR also submitted that since the assessee has not discharged his onus by way of explaining the reason for condonation of delay, the Ld. CIT(A)-NFAC has rightly dismissed the appeal of the assessee as inadmissible. In toto, the Ld. DR supported the decision of the Ld. Revenue Authorities and pleaded to uphold the decision of the Ld. Revenue Authorities.

6. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is a fact that on being aggrieved by the addition made by the Ld. AO U/s. 69A r.w.s 115BBE of the Act, the assessee preferred an appeal before the Ld. CIT(A)-NFAC with a delay of 126 days. On perusal of the appeal record placed before us, it appears that with respect to the belated filing of the appeal, the assessee has explained his reasons by stating that assessee being an agriculturist, illiterate and having no knowledge about the intricate provisions of the Income Tax Act, 1961, the appeal

could not be filed within the stipulated time before the Ld. CIT(A)-NFAC. In this situation, we are of the view that the Ld. CIT(A)-NFAC ought to have considered the explanation given by the assessee for belated filing of the appeal and ought to have disposed of the appeal on merits. Instead, the Ld. CIT(A)-NFAC dismissed the assessee's appeal as not maintainable without considering the genuine explanation given by the assessee. Therefore, we are of the considered view that it is a fit case to condone the delay in filing the appeal before the Ld. CIT(A) -NFAC since there is no willful negligence or laches on the part of the assessee. Therefore, we hereby condone the delay of 126 days in filing the appeal before the Ld. CIT(A)-NFAC and set-aside the order passed by the Ld. CIT(A)-NFAC and thereby remit the matter back to the file of the Ld. CIT(A) with a direction to dispose of the appeal on merits after affording a reasonable opportunity of being heard to the assessee in accordance with the principles of natural justice. Further, we also hereby caution the assessee to promptly cooperate before the Ld. CIT(A)-NFAC in their proceedings, otherwise Ld. Revenue Authorities are at liberty to pass orders in accordance with law based on the material available on record. It is ordered accordingly.

7. In the result, appeal of the assessee is allowed for statistical purposes as indicated herein above.

Pronounced in the open Court on 25<sup>th</sup> November, 2024.

Sd/-  
(श्री के नरसिम्हा चारी)  
(K NARASIMHA CHARY)  
न्यायिकसदस्य/JUDICIAL MEMBER

Sd/-  
(एस बालाकृष्णन)  
(S.BALAKRISHNAN)  
लेखा सदस्य/ACCOUNTANT MEMBER

Dated : 25.11.2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Sambasiva Rao Muppera, 1-71, Boundrai Center, Penumaka, Guntur District, Andhra Pradesh-522501.
2. राजस्व/The Revenue – The Income Tax Officer, Ward-2(1), Kannavari Thota, Guntur-522001, Andhra Pradesh.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam