

आयकर अपीलीय अधिकरण, 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

आयकर अपील सं./ I.T.A. 536/Viz/2024
(निर्धारण वर्ष / Assessment Year : 2017-18)

Sri Satyanarayana Fertilizers,
Vizianagaram.

PAN:AAIFS2692G

(अपीलार्थी/ Appellant)

अपीलार्थी की ओर से/ Assessee by

प्रत्यार्थी की ओर से / Revenue by

Vs. Income Tax Officer,
Ward-1,

Vizianagaram.

(प्रत्यर्थी/ Respondent)

Sri GVN Hari, AR

Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing

: 18/02/2025

घोषणा की तारीख/Date of Pronouncement

: 07/03/2025

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)") vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1070262547(1), dated 11/11/2024 for the AY 2017-18 arising out of the order passed U/s. 147 r.w.s 144 of the Income Tax Act, 1961 ("the Act").

2. Brief facts of the case are that the assessee is engaged in the business of retail trade in fertilizers. The assessee has not

filed return of income for the AY 2017-18. As per the information received by the Department, the Ld. AO observed that the assessee has deposited cash of Rs. 1,62,59,500/- in his bank account and has also received interest income of Res. 26,298/- during the FY 2016-17 relevant to the AY 2017-18. Since the assessee has not filed the return of income for the AY under consideration, based on the information available with the Department, the assessee was asked to explain the cash deposit. There was no response from the assessee and therefore the case of the assessee was reopened and a notice U/s. 148 of the Act was issued on 30/03/2021 and the same was duly served on the assessee requiring the assessee to file the return of income within 30 days from the receipt of notice. However, the assessee did not respond to the notice U/s. 148 of the Act. Further, notice U/s. 142(1) of the Act was issued to the assessee on various dates. But the assessee neither filed return of income nor filed any submission. Therefore, the Ld. AO based on the material available before him, since the assessee has not discharged his onus to prove the genuineness of the transactions, the cash deposit of Rs. 1,62,59,500/- was treated as unexplained money U/s. 69A r.w.s 115BBE of the Act and added the same to the total income of the assessee. Further, the Ld. AO also made

addition of Rs. 26,298/- towards interest income received. Thus, the Ld. AO completed the assessment U/s. 147 r.w.s 144 r.w.s 144B of the Act and determined the total income of the assessee at Rs. 1,62,85,800/- and passed the assessment order dated 23/03/2022. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A) with a delay of 165 days. The Ld. CIT(A) did not condone the delay by holding that the assessee has not given any sufficient and reasonable cause for the delay and therefore, dismissed the appeal in limine. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld.CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) is not justified in dismissing the appeal without granting sufficient opportunity to the appellant.*
3. *The Ld. CIT(A) is not justified in dismissing the appeal on the ground that the appellant failed to explain the delay of 165 days in filing the appeal.*
4. *Any other ground that may be urged at the time of appeal hearing.”*

3. At the outset, the Ld. AR submitted that during the relevant period, the assessee's Authorized Representative was affected by the Covid-19 virus and was hospitalized and therefore, the appeal could not be filed before the Ld. CIT(A) within the prescribed time

limit. In support of his submission, the Ld. AR filed the affidavit of the assessee's Counsel, dated 12/02/2025 along with the medical certificate and hospital record. Therefore, the Ld. AR pleaded that the delay in filing the appeal before the Ld. CIT(A) may be condoned and the matter may be remitted back to the file of the Ld. CIT(A) in order to decide the case on merits.

4. On the other hand, the Ld. Departmental Representative ("Ld. DR") vehemently opposed to the submissions of the Ld. AR and supported the orders of the Ld. Revenue Authorities.

5. We have heard both the sides and perused the material available on record and the orders of the Ld. Revenue Authorities. It is a fact that the assessee has filed the appeal before the Ld. CIT(A) with a delay of 165 days. The Ld. CIT(A) did not condone the delay because the petition for condonation of delay was not filed and there is no sufficient and reasonable cause for filing the appeal belatedly. However, before us, the Ld. AR submitted that the condonation petition along with the Medical Certificate has been filed before the Bench and therefore prayed that the delay in filing the appeal before the Ld. CIT(A) may be condoned and the matter may be remitted back to the file of the Ld. CIT(A). On perusal of the condonation of delay petition

filed by the learned Counsel for the assessee, we find that there is a reasonable and sufficient cause for the assessee in filing the appeal before the Ld. CIT(A) with a delay of 165 days. We extract the relevant portion of the learned Counsel's affidavit explaining the reasons for delay, which reads as follows:

"1.....

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5. *That during the Covid-19 Pandemic, I was personally affected by the virus and was admitted to the hospital from 12/08/2020 to 21/08/2020 for treatment. Even after discharge, I continued to suffer from the aftereffects of Covid-19, which affected my health and professional activities for a prolonged period.*

6. *That due to my health condition and the operational disruptions caused by the pandemic, there was an unintentional lapse in tracing the email notifications related to the assessment proceedings of the appellant firm. As a result, the appellant firm remained unaware of the reassessment proceedings and the subsequent ex-parte assessment order dated 23/03/2022 leading to a delay of 165 days in filing the appeal against the said order.*

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6. We therefore are of the considered view that there is a reasonable and sufficient cause for the delay of 165 days because of the ill health of the learned Counsel for the assessee and therefore the same cannot be attributed intentionally by the assessee. Hence, we condone the delay of 165 days in filing the appeal before the Ld. CIT(A). Accordingly, we hereby remit the matter back to the file of the Ld. CIT(A) with a direction to decide

the case on merits after affording a reasonable opportunity of being to the assessee as per the principles of natural justice. It is ordered accordingly.

7. In the result, appeal filed by the assessee is allowed.

Pronounced in the open Court on 07th March, 2025

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

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

Dated :07/03/2025
OKK - SPS

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

1. निर्धारिती/ The Assessee – Sri Satyanarayan Fertilizers, D.No. 115-45, Azzada Road, Seethanagaram, Vizianagaram, Andhra Pradesh-535546.
2. राजस्व/The Revenue – Income Tax Officer, Ward-1, O/o. ITO, Koppu Gaurana Building, Siddhartha Nagar, Bhimavaram, Andhra Pradesh-535002.
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