

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' DB-A ' Bench, Hyderabad

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.1406/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Venkat Reddy Poreddy HYDERABAD PAN:AITPP4141L (Appellant)	Vs.	Addl. C. I. T Rangfe 9 Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri P. Vinod, Advocate
राजस्व द्वारा / Revenue by:		Shri Srinath Sadanala, DR
सुनवाई की तारीख / Date of hearing:		02/04/2025
घोषणा की तारीख / Pronouncement:		03/04/2025

आदेश / ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 31/10/2024 of the learned CIT (A)-NFAC Delhi, arising from the penalty order passed u/s 271D of the I.T. Act, 1961 for the A.Y.2017-18.

2. There is a delay of 366 days in filing the present appeal. The assessee has filed an affidavit explaining the cause of delay. The learned AR of the assessee has submitted that, the assessee was not aware of the impugned order passed by the learned CIT (A) and came to know about the same only on 23/12/2024, when the assessee approached his Counsel to inquire about the status of the appeal filed before the learned CIT

(A) along with appeals filed by the co-owners of the land. The learned AR has further submitted that the assessee also wanted to settle the dispute under the Direct Tax VSVS 2024 and therefore, sought the information from his Counsel in this regard. The Counsel suggested that the appellant can opt for the Direct Tax VSVS Scheme 2024 during the pendency of the appeal. However, after logging into the IT Portal, it was found that the learned CIT (A) has already disposed of the appeal vide order dated 31/10/2023. Thus, the assessee was advised to file further appeal before the Tribunal for availing the benefit of Direct Tax VSVS Scheme 2024. Accordingly, the assessee has filed the present appeal on 31/12/2024 after a delay of 366 days. The learned AR has pointed out that the assessee also filed declaration under Direct Tax VSVS 2024 on 25/01/2025, however, the said declaration was rejected on the ground that there is no appeal pending as on the specified date i.e. 22/07/2024. He has filed a copy of the rejection remarks dated 11/3/2025 in the declaration made under the Direct Tax VSVS Scheme, 2024. Thus, the learned AR has submitted that the delay in filing the appeal is neither willful nor deliberate but due to non-awareness of the impugned order passed by the learned CIT (A). He has thus, pleaded that the delay in filing the appeal may be condoned so that the assessee may settle the dispute under the Direct Tax VSVS Scheme, 2024.

3. On the other hand, the learned DR has vehemently objected to the condonation of delay and submitted that the delay of 366 days is an inordinate delay and the assessee has given very vague reasons of no knowledge of passing the impugned order. Thus, the learned DR has submitted that the assessee does not

deserve condonation of delay as the reasons explained by the assessee are not sufficient to condone such an inordinate delay.

4. We have considered the rival submission and carefully perused the contents of the affidavit filed by the assessee explaining the cause of delay. The assessee has explained the reasons in paras 4 and 5 of the affidavit as under:

4. It is submitted that the Appellant was not aware of passing of impugned order by the Hon'ble CIT(A). The Appellant came to know about passing of the impugned order only on 23.12.2024 when the Appellant approached the counsel's office to know about case status of his appeal as well as other co-owners appeals and to take opinion on opting for Vivad Se Vishwas Scheme, 2024. My Counsel suggested that the Appellant can opt for the scheme, however after logging into income tax portal it was found that the Hon'ble CIT(A) has already disposed of the appeal vide order dt.31.10.2023. My counsel suggested to file further appeal before the Hon'ble Tribunal, and then to opt for the scheme. Accordingly, the appeal is filed before the Hon'ble Tribunal on 31.12.2024 and the declaration under VSVS, 2024 was filed on 25.01.2025. By the time the appeal was filed before the Hon'ble Tribunal there is a delay of 366 days in filing the appeal.
5. It is submitted that the delay in filing the appeal is not wilful but is for the above mentioned reasons. It is respectfully submitted that the Appellant did not gain any benefit by filing the appeal with a delay and in fact is running a risk of condonation. It is submitted that if the Hon'ble Tribunal is not pleased to condone the delay of 366 days in filing the appeal, the appellant would be put to irreparable loss and injury which cannot be compensated by any other means.

5. We have also perused the impugned order of the learned CIT (A) which has been passed ex-parte whereby the appeal of the assessee has been dismissed for non-prosecution. The learned CIT (A) has given the details of six notices out of which there was no response by the assessee to 5 notices and in case of one notice, the assessee filed the letter seeking adjournment. The learned CIT (A) has not given the mode of sending the notice or email ID to which the notices were sent. The assessee is an individual and was completely dependent on the Authorized Representative/Counsel to participate in the proceedings before the learned CIT (A). The ex-parte order passed

by the learned CIT (A) shows that there was no compliance to the various notices issued by the learned CIT (A) and therefore, due to non-participation on behalf of the assessee, the appeal of the assessee was dismissed. Thus, these facts suggests that the assessee was not aware about the proceedings and notices issued by the learned CIT (A) as well as the impugned order passed by the learned CIT (A). Accordingly, we find no reason to disbelieve the cause of delay explained by the assessee in the affidavit. Even otherwise, the assessee wanted to settle the dispute by opting for the Direct Tax VSVS Scheme, 2024 and filed the declaration on 25/01/2025 which has been rejected vide order dated 11/03/2025 stating the reasons that no appeal was pending as on specified date i.e. 22/07/2024. Accordingly, in the facts and circumstances of the case and in the interest of justice, we are satisfied that there was sufficient cause for the delay in filing the present appeal. Hence, the delay of 366 days in filing the present appeal is hereby condoned.

6. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case, the order of the Id. CIT(A) is erroneous and unsustainable in law apart from being passed in violation of principles of natural justice. The Id. CIT(A) failed to appreciate that proper notices were not served on the appellant as required under section 282 of the Act r.w. rule 127 of the Rules, and therefore Appellant could not put forth her case.
2. The Id. CIT(A) erred in sustaining the penalty levied by the AO of Rs.5,50,000 u/s.271D of the Income Tax Act, 1961.

(Tax Effect: Rs.5,50,000)

3. Any other ground that may be urged at the time of hearing.

7. At the outset, the learned AR of the assessee has submitted that the learned CIT (A) has dismissed the appeal filed against the penalty of Rs.5,50,000/- u/s 271D of the Act for non-prosecution. He has pleaded that the impugned order of the learned CIT (A) may be set aside and the matter may be remanded to the learned CIT (A) for fresh adjudication so that the assessee would avail the Direct Tax VSVS Scheme, 2024 to settle the outstanding tax dispute.

8. On the other hand, the learned DR has raised no serious objection, if the matter is remanded to the record of the learned CIT (A) for fresh adjudication.

9. We have considered the rival submission and perused the impugned order of the learned CIT (A). The learned CIT (A) has issued various notices to the assessee but there was no response on behalf of the assessee. In the absence of any reply and written submission alongwith documentary evidence, the learned CIT (A) has dismissed the appeal of the assessee while passing the impugned order. Thus, it is clear that the learned CIT (A) has passed the impugned order ex-parte due to non-appearance/participation on behalf of the assessee. The assessee has already explained the cause of non-appearance as he was not aware about the notices issued by the learned CIT (A) and was depending upon the Counsel who was authorized to represent the assessee before the learned CIT (A). Accordingly, when the appeal of the assessee was not decided on merits of the grounds raised by the assessee, the impugned order of the learned CIT (A) is set aside and the matter is remanded to the record of the learned CIT

(A) for fresh adjudication after giving one more opportunity of hearing to the assessee.

10. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 3rd April, 2025.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
--	---

Hyderabad, dated 3rd April, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Venkat Reddy Poreddy, Plot No.A/24, Flat No.201, Green Park Colony, Road No.3, Karmanghat, Saroornagar, Ranga Reddy 500035
2	Addl. CIT, Range-9 IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	Pr. CIT Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order