

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'B' Bench, Hyderabad**

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य  
**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**  
**AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A.No.120/Hyd/2025  
(निर्धारण वर्ष/ Assessment Year : 2016-17)

Maisamma Devatha Temple, Mahabubnagar.  PAN : AAETM8609F		Income Tax Officer, Ward - 1, Mahabubnagar.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri P. Murali Mohan Rao, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Sachin Kumar, Sr.D.R
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	16.04.2025
घोषणा की तारीख/Date of Pronouncement	:	23.04.2025

**ORDER**

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 03.09.2024,

which in turn arises from the order passed by the Assessing Officer (for short "A.O.") u/s 147 read with Section 144 of the Income Tax Act, 1961 (for short "the Act") dated 27.03.2022 for A.Y. 2016-17. The assessee has assailed the impugned order on the following grounds of appeal before us :

"1. The order by the Ld. CIT(A) passed u/s 250 of the Act dt. 03.09.2024 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.

2. The Ld. CIT(A) erred in dismissing the appeal and in not condoning the delay of 148 days in filing the appeal before him.

3. The Ld. CIT(A) ought to have admitted the appeal and heard the appeal on the basis of merits rather than dismissing the appeal without appreciating that the delay is due to reasons that are beyond control of the appellant.

4. The Ld. CIT(A) has erred in rejecting the appeal on the technical grounds which amounts to denial of justice to the appellant.

5. The Ld. CIT(A) ought to have appreciated that the Assessing Officer erred in initiating assessment proceedings u/s 147 of the I.T. Act in the case of temple which is run by the Endowments Department of Government of Telangana.

6. The Ld. CIT(A) ought to have appreciated that no assessment can be made against the State Government under the Income Tax Act as the income derived by the State Government is exempt from tax.

7. The Ld. CIT(A) ought to have appreciated that the temple is registered under the Endowment Department of Telangana vide certificate no. RC.D is No. C/615/93, Dated 09/05/1994 u/s 43 of Endowment Act 30 of 1987.

8. The Ld. CIT(A) ought to have appreciated that the deposits comprise voluntary donations and the same are eligible for exemption u/s 10(23BBA) of the Income Tax Act.

9. The Ld. CIT(A) ought to have appreciated that the appellant being an institution run by the Government and as the expenditure incurred is more than the income derived, the appellant did not file the return of income as there is no such requirement."

2. Succinctly stated, the A.O. based on information that though the assessee trust had during the subject year made cash deposits of Rs.2,19,39,400/- in its savings bank account maintained with Canara Bank, Branch: Kadthal, but had not filed its return of income, initiated proceedings u/s 147 of the Act. Notice u/s 148 of the Act 31.03.2011 was issued to the assessee trust. However, the assessee trust failed to file its return of income in compliance to the aforesaid notice. Apart from that, all the notices that were issued by the A.O. u/s 142(1) of the Act remained uncompiled with by the assessee trust. Accordingly, the A.O. being left with no alternative was constrained to proceed with and frame the assessment to the best of his judgment u/s 144 of the Act. In the absence of any explanation forth coming as regards the source of the cash deposits of Rs.2.19 crore (approx.), the A.O. vide his order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 27.03.2022 held the same as having been sourced out of the assessee's unexplained money u/s 69A of the Act.

3. Aggrieved, the assessee trust carried the matter in appeal before the CIT(A). As the appeal filed by the assessee trust involved a delay of 148 days, therefore, the assessee filed an application

before the CIT(A) seeking condonation of the same. However, as the explanation of the assessee regarding the reasons leading to the delay involved in filing of the appeal did not find favour with the CIT(A), therefore, he declined to condone the same and dismissed the appeal in *limine*.

4. The assessee being aggrieved with the order of CIT(A), has carried the matter in appeal before us.

5. Shri P. Murali Mohan Rao, C.A., learned Authorized Representative (for short "ld.AR") for the assessee trust, at the threshold of hearing of the appeal, submitted that the present appeal filed by the assessee trust involves a delay of 77 days. The Ld. AR on being confronted with the fact that the Registry had pointed out a delay of 59 days corrected his claim and submitted that an inadvertent mistake had crept in on the assessee's part while computing the period of delay. Elaborating on the reasons leading to the delay, the ld.AR submitted that the assessee trust is a Temple situated at Village Maisigandi, Kadthan Post, Amangal Mandal, District Mahabubnagar that is being managed by the Endowment Department of the State Government of Telangana and during the relevant period had no regular Chartered

Accountant. The ld. AR submitted that the services of a Chartered Accountant could not be immediately engaged by the assessee trust as the same required the approval by the Endowment Department. Carrying his contention further, the ld.AR submitted that as the assessee trust is an Institution which is being run by the Government and the expenditure incurred during the subject year was more than the income derived, therefore, the assessee trust remaining under a bona fide belief that it was under no obligation to file its return of income had not filed the same. The ld.AR submitted that as the delay in preferring the present appeal had occasioned for bona fide reasons i.e., delay in engaging the services of a Chartered Accountant after obtaining the approval of the Endowment Department, therefore, the same in all fairness be condoned.

6. Per contra, Dr. Sachin Kumar, the learned Senior Departmental Representative (for short "ld. DR") objected to the seeking of the condonation of the delay involved in filing of the present appeal by the assessee trust. The ld. DR submitted that the assessee trust had not only delayed in filing of the present appeal before the Tribunal but had also delayed the filing of the

appeal before the CIT(A), which thus, had resulted to the dismissal of the same in *limine* by the CIT(A). The ld. DR submitted that as the assessee trust was consistently not complying with the statutory obligation that was cast upon it as regards timely filing of appeals before the appellate authorities, therefore, there was no substance in the ld. AR's claim that the delay in filing of the present appeal was backed by bona fide reasons. Apart from that, it was submitted by him that the ld. AR's claim that the delay in filing of the present appeal was for the reason that the approval of the Endowment Department for engaging the services of a Chartered Accountant for filing of the present appeal could not be obtained within the statutory time period was merely an eye wash and devoid of any substance. Carrying his contention further, the ld. DR submitted that a similar reason was given by the assessee trust in its attempt to justify the delay that was involved in filing of the appeal before the CIT(A). The ld. DR based on his aforesaid contentions submitted that as the explanation of the assessee qua the delay involved in filing of the appeal was devoid and bereft of any substance, therefore the same does not merit acceptance.

7. We have thoughtfully considered the arguments advanced by the learned authorized representatives of both the parties regarding the delay of 59 days involved in filing of the present appeal. Ostensibly, the fact that the assessee trust had failed to file its return of income and also delayed the filing of the appeal before the CIT(A) though reveals that it had consistently adopted a casual approach in meeting out the obligation cast upon it as regards timely filing of appeals under the Income-tax Act, but considering the explanation of the ld.AR as regards the reasons resulting to the delay involved in filing of the appeal, viz., (i) that as the management of the assessee trust was taken over by the State Government of Telangana and was vested with the Endowment Department, therefore, the assessee trust had remained under the bona fide belief that as its receipts and expenditure were being accounted for by the Endowment Department of the State Government of Telangana it was under no obligation to file its return of income; and (ii) that it had at the relevant point of time no assistance of services of a regular Chartered Accountant; and (iii) that there was a delay in engaging the services of a Chartered Accountant for filing the present appeal, as the same required the approval by the Endowment

Department, we are of the firm conviction that the explanation of the assessee regarding the delay in filing of the present appeal cannot be summarily brushed aside. On considering the reasons leading to the delay in filing of the appeal, we are of the view that the same cannot be attributed to gross lackadaisical approach or malafide conduct of the assessee trust. Although the assessee trust ought to have remained vigilant as regards the obligation cast upon it for timely filing of appeals, i.e within the prescribed time period, but we are of a firm conviction that as there were Bonafide reasons resulting to the delay in filing of the same, therefore, adopting a liberal view the same merits to be condoned. Our aforesaid view that a liberal approach should be adopted while considering the application filed by assessee trust seeking condonation of the appeal involved in filing of the present appeal is supported by the judgment of the **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal vs. The Income Tax Officer, Ward-2, Ambikapur** in **Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31<sup>st</sup> January, 2025**, wherein the Hon'ble Apex Court while setting aside the order of the Hon'ble High Court of Chhattisgarh, which had approved the declining of

the condonation of delay of 166 days by the Income Tax Appellate Tribunal, Raipur Bench, had observed, that a justice oriented and liberal approach should be adopted while considering the application filed by an appellant seeking condonation of the delay involved in filing of the appeal. We thus, in terms of our aforesaid observation, condone the delay of 59 days involved in filing of the present appeal by the assessee trust before us.

8. Apropos the merits of the case, it transpires that the CIT(A) had dismissed the appeal for the very reason that the same involved a delay of 148 days. Accordingly, the CIT(A) had declined to accept the explanation of the assessee trust regarding the reasons leading to the delay and had on the said count itself dismissed its appeal in *limine*.

9. We have thoughtfully considered the observations of the CIT(A) based on which he had declined to condone the delay of 148 days in filing of the present appeal by the assessee trust. Although, at first blush, the conviction of the CIT(A) in not condoning the delay appeared to be correct, but when it is read in the backdrop of the complete set of facts therein involved, we are unable to subscribe to the same. As it is the case of the assessee

trust, which had not filed its return of income remaining under the bona fide belief that its receipts and expenditure were being accounted for by the Endowment Department by the State Government of Telangana, which had appointed an Executive Officer for running the Temple, therefore, the said fact in itself reveals that the assessee trust was not much conversant about the implication of the provisions of the Income-tax Act. Apart from that, on perusal of the CIT(A)'s order, we find that the assessee trust had duly complied with the notices that were physically served upon it u/s 133(6) of the Act, dated 17.01.2020 and had submitted the information as was sought for by the A.O. on 16.03.2020. Also, we find that the assessee trust on receipt of a notice u/s 148A(b), dated 15.03.2022 that was dispatched by Speed Post on 18.03.2022 (received on 19.03.2022) forwarded the same to the Endowment Department. Also, the notices u/s 142(1), dated 11.03.2022, dated 12.03.2022, dated 29.07.2022 along with notice u/s 148 dated 31.03.2021 which were received by the assessee trust were forwarded to the Endowment Department. As is discernible from the record, the Endowment Department had advised the Executive Officer of Temple to engage the services of a Chartered Accountant for carrying out necessary compliance to

the aforesaid notices. However, it is the assessee's claim that though the Executive Officer had made necessary efforts to engage a Chartered Accountant but due to delayed approval from Endowment Department the same could not be filed before the CIT(A) within the prescribed time. Considering the totality of the aforesaid facts, we are of the firm conviction that the CIT(A) ought to have adopted a liberal approach and condoned the delay instead of dismissing the appeal in *limine*. Once again, our aforesaid view that in all fairness, a justice oriented and liberal approach should have been adopted by the CIT(A) while considering the explanation of the assessee trust regarding the delay involved in filing of the appeal is supported by the judgment of the **Vidya Shankar Jaiswal vs. The Income Tax Officer (supra)**.

10. We thus, in terms of our aforesaid observations, set aside the order of CIT(A) and restore the matter to his file with a direction to dispose of the appeal on merits. Needless to say, the CIT(A) shall during the course of the de novo appellate proceedings afford a reasonable opportunity of being heard to the assessee trust.

11. Resultantly, the appeal of the assessee trust is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the Open Court on 23<sup>rd</sup> April, 2025.

Sd/- (श्री मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER
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Hyderabad, dated 23.04.2025.

**\*\*\*TYNM/sps**

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Maisamma Devatha Temple, Maisigandi Kadthal Post, Amangal Mandal, Mahabubnagar – 509358, Telangana.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward – 1, Mahabubnagar.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER