

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' 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.Nos.53 and 54/Hyd/2025  
(निर्धारण वर्ष/ Assessment Years : 2017-18 and 2018-19)

Srinivas Reddy Yedla, Nalgonda.	Vs.	The Income Tax Officer, Ward -1, Suryapet.
PAN : AFRPY5363E		
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Ms. Sandhya, Advocate.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Srinath Sadanala, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	27.03.2025
घोषणा की तारीख/ Date of Pronouncement	:	16.04.2025

**ORDER**

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

The captioned appeals filed by the assessee are directed  
against the respective orders passed by the Commissioner of

Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 17.08.2023, which in turn arises from the respective orders passed by the Assessing Officer under Section 144 of the Income Tax Act, 1961 (for short "the Act") dated 19.11.2019 for A.Y. 2017-18 and A.Y. 2018-19, respectively. As common issues are involved in the captioned appeals, therefore, the same are taken up and disposed of vide this consolidated order.

2. We shall first take up the appeal for A.Y. 2017-18 in ITA No.53/Hyd/2025 wherein the impugned order has been assailed on the following grounds of appeal before us:

- “1) The order of the learned CIT (A) is erroneous both on facts and in law;
- 2) The learned CIT (A) erred in deciding the appeal ex-parte;
- 3) The learned CIT (A) ought to have provided further opportunity to the appellant herein;
- 4) The learned CIT (A) erred in determining the cash deposits to the extent of Rs.14,36,500/- as the unexplained income and assessing the same u/s 115BBE of the I.T.Act.”

3. Succinctly stated, the AO, based on the information received through AIMS (Actionable Information Monitoring System) that the assessee had during the demonetization period i.e., 09-11-2016 to 30-12-2016, made cash deposits of Rs.14,46,500/- in his bank account, issued notice under Section

142(1) of the Act dated 13.03.2018. After persistent reminders, the assessee had come forth with a reply, vide his letter dated 17-10-2019, wherein it was claimed by him that the cash deposits made in his bank account maintained with A.P.G.V. Bank during the year under consideration were sourced out of receipts of his business of retail trading in fertilizers at Ramannapet Town and Mandal of Yadadri, Bhuvanagiri District. Accordingly, it was the assessee's claim that the cash deposits made in his bank account during the demonetization period were sourced out of the retail sales of his business.

4. As the assessee had failed to file his return of income in compliance to the notice issued under Section 142(1) of the Act, therefore, the AO gathered information vide letters issued to A.P.G.V. Bank, Ramannapet Branch under Section 133(6) of the Act. As per the details furnished by the bank, the assessee during the demonetization period had in his bank account made cash deposits of Rs.14,46,500/-. Also, the AO was informed that the assessee during the entire year had made cash deposits of Rs.42,08,000/- while for total credits in the said bank account during the subject year aggregated to Rs.70,19,136/-.

5. The AO, holding a conviction that the assessee had failed to discharge the onus that was cast upon him i.e to explain, based on irrefutable documentary evidence, the source of cash deposits of Rs.14.46 lacs (approx.) made in his bank account during the demonetization period, thus, held the same as having been sourced out of his unexplained money under Section 69A of the Act.

6. Apart from that, the AO held the balance credits in the assessee's bank account, i.e., Rs.55,72,636/- [Rs.70,19,136/- (-) Rs.14,46,500/-] as the turnover of the assessee's business of retail trading of fertilizers that was carried out under the name and style of "M/s. Gopi Krishna Traders". Accordingly, the AO taking cognizance of the profit that was admitted by the assessee on turnover of his aforesaid retail business for the preceding two years i.e., for A.Y 2015-16 and 2016-17, estimated the business income of the assessee on sales of Rs.55.72 lacs @ 8%, i.e., at Rs.4,45,810/-. Accordingly, the AO, after making the aforementioned additions, vide his order passed under Section 144 of the Act, dated 19-11-2019, determined the income of the assessee at Rs.18,92,310/-.

7. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. Ostensibly, the CIT(A), observing that the assessee, despite having been put to notice about the fixation of hearing of the appeal, had neither sought an adjournment nor participated in the appellate proceedings, thus holding a conviction that the assessee was not interested in pursuing the appeal, dismissed the same for want of prosecution. For the sake of clarity, the observations of the CIT(A) are culled out as under:

“5. It was noticed that apart from filing Grounds of Appeal & Statement of Facts, no other detail was provided by the appellant to drive home his contention. In Form No. 35 against Column No. 11 "**List of documentary evidence relied upon**" the appellant's comment was "**STATE OF BANK ACCOUNT STATEMENT OF APGV BANK**". However, no bank statement was submitted. Therefore, notices dated 13.01.2021 etc. were issued. There was no reply from the end of the appellant.

5.1 Therefore, a final hearing notice dated 28.09.2022 was issued with following comments:

If no submissions/information/documents received within the stipulated time period, it will be presumed that you have nothing to say in this matter. The Department may proceed ahead based on material available on record.

5.2. As there was no response, a system generated communication dated 04.11.2022 was notified to the appellant with the message, "The communication window with the CIT(A) has been enabled. As usual, there was no answer.

6. No reply till date has been received. No adjournment has been sought. Quite clearly, the appellant does not wish to rebut the contentions of the AO and the conclusions drawn.

7. It is trite that the law assists the vigilant and not the indolent as stated in the Latin Maxim " Vigilantibus Non Dormientibus Jura Subveniunt". Clearly, appellant is not interested in submitting requisite details to contest the appeal. Accordingly, the grounds of appeal are decided against the appellant."

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

9. We have heard the learned authorized representatives of both parties, perused the orders of the lower authorities and the material available on record.

10. Ms. S. Sandhya, Advocate, the learned Authorized Representative (for short, "ld.AR") for the assessee, at the threshold of hearing, submitted that the present appeal involves a delay of 443 days. Elaborating on the reasons leading to the delay, the ld. AR submitted that the same had occasioned for certain unavoidable reasons. The Ld. AR submitted that the CIT(A)'s order was dropped in the e-mail account of his Income-Tax Consultant, who was regularly filing his return of income. Elaborating further, the Ld. AR submitted that as the assessee was not physically served with a copy of the order of the CIT(A) and, was also not conversant with viewing his Income-tax Portal Account, therefore, for bonafide reasons he had failed to keep a track of his appeal that was pending before the first appellate

authority. The Ld. AR submitted that though the order of the CIT(A) had come to the assessee's notice in the month of August, 2024, and he was contemplating entrusting the matter for filing of an appeal before the Tribunal to a counsel preferably based at Hyderabad, but during the said period having suffered a fracture had remained busy seeking medical treatment. The Ld. AR submitted that the assessee had thereafter suffered recurring chest pain and was advised complete bed rest for a period of three months i.e from 16-10-2024 onwards. The ld.AR to fortify the aforesaid factual position, had drawn support from the affidavit of the assessee along with copies of the medical reports/certificates. The ld. AR submitted that, as the delay involved in filing of the appeal had crept in because of bonafide reasons, therefore, the same, in all fairness, be condoned.

11. Per contra, the Ld. DR objected to the seeking of the condonation of the delay involved in filing of the present appeal by the assessee.

12. The Ld. DR submitted that as the delay involved in the present appeal is inordinate, therefore, the same did not merit to be condoned.

13. We have given thoughtful consideration to the explanation of the assessee regarding the delay of 443 days involved in filing of the present appeal. Although we are not oblivious of the fact that the delay in filing of the present appeal is inordinate but at the same time cannot brush aside the explanation of the assessee, which as deposed by him in his "affidavit" had resulted to the said delay. After considering the multiple reasons resulting to the delay in filing of the present appeal, we are of the view that the same not occasioned on account of any lackadaisical approach or any intentional lapse on the part of the assessee. Considering the aforesaid facts, we are of a firm conviction that the delay involved in the present appeal merits to be condoned. Our aforesaid view is fortified by the recent decision 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**. The Hon'ble Apex Court while setting aside the order of the Hon'ble High Court of Chhatisgarh, 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 delay involved in filing of the appeal.

14. Apropos, the merits of the case, it transpires that the assessee, on being queried about the cash deposits of Rs.14.46 lacs (supra) in his bank account No.1340100000894 held with A.P.G.V. Bank, Ramannapet Branch, had claimed that the same were sourced out of the sale proceeds of his petty business of trading in fertilizers. As is discernible from the record, the assessee had during the assessment proceedings, vide his reply dated 17-10-2019, claimed that the cash deposits in his bank account aggregating to Rs.14.46 lacs (supra) were sourced from the sale proceeds of his aforesaid his business. It transpires on perusal of the assessment order that the Assessing Officer had summarily rejected the aforesaid explanation of the assessee, for the reason, that the latter had failed to substantiate his claim that the cash deposits in his bank account was the turnover of his business of retail trading in fertilizers. Although, we concur with the AO that if an assessee fails to irrefutably substantiate his explanation as regards the source of cash deposits in his bank account, then, he is not obligated to accept the same. At the same time, we find that there is no whisper in the assessment

order which would reveal that the AO had ever called upon the assessee to substantiate his aforesaid claim i.e., the subject cash deposits were sourced from the sale proceeds of his aforementioned business by placing on record any supporting documentary evidence/material. Rather, we find that the assessee had after furnishing his reply dated 17-10-2019 (supra), filed before the A.O. another reply wherein having reiterated his aforesaid claim he had sought for determination of his income from the aforesaid retail business of trading in fertilizers as per the presumptive provisions of section 44AD of the Act. Nothing is either discernible from the assessment order; nor brought to our notice by the Ld. DR which would reveal that the A.O. had in the course of the assessment proceedings directed the assessee to produce supporting documentary evidence to corroborate his aforesaid claim regarding the source of cash deposits in his bank account. We, thus, find substance in the Ld. AR's claim that the assessee had been visited with the impugned addition of the entire amount of cash deposits of Rs.14.46 lacs (supra) without having been afforded any sufficient opportunity to substantiate his claim.

15. Although, we are not oblivion of the fact that the assessee had failed to substantiate his claim in the course of the proceedings before the CIT(A), but then as observed by us hereinabove, as there were justifiable reasons for the assessee in not participating in the proceedings before the first appellate authority, therefore, he had remained divested of an opportunity to substantiate his claim even before the said appellate authority.

16. Be that as it may, we are of the firm conviction that as the impugned addition of Rs.14.46 lacs (supra) had been made by the AO vide his order passed U/s.144 of the Act, dated 19-11-2019, without affording of a sufficient opportunity to the assessee to substantiate his claim regarding the source of the cash deposits in his bank account, therefore, the addition so made cannot be summarily approved on our part. We, thus, in terms of our aforesaid observations, set aside the matter to the file of the AO with a direction to re-adjudicate the case after affording a reasonable opportunity of being heard to the assessee who will remain at liberty to substantiate his claim based on fresh documentary evidence, if any.

17. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

**ITA No.54/Hyd/2024 for A.Y. 2018-19**

18. As the facts and the issue involved in the present appeal remain the same as were there before us in the assessee's appeal for A.Y. 2017-18 in ITA No.53/Hyd/2025, therefore, the order therein passed shall apply *mutatis mutandis* for disposing of the present appeal i.e ITA No.54/Hyd/2025 for A.Y. 2018-19.

19. In the result, both the captioned appeals are disposed of in terms of the aforesaid observations.

16<sup>th</sup> अप्रैल 2025 को खुली अदालत में सुनाया गया आदेश।

Order pronounced in the Open Court on 16<sup>th</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 16.04.2025.

\*\*\*#TYNM/sps

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

1.	निर्धारिती/The Assessee	:	Srinivas Reddy Yedla, H.No.6-133, Prop. M/s. Gopi Krishna Traders, Subash Road, Ramannapet, Nalgonda, Telangana – 508113.
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2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward –1, Suryapet.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Hyderabad.