

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

**Before Shri Vijay Pal Rao, Vice President**  
**and**  
**Shri Madhusudan Sawdia, Accountant Member**

आ.अपी.सं /**ITA No.63/Hyd/2025**  
(निर्धारण वर्ष / Assessment Year: 2014-15)

Gangavarapu Sreenivasulu Naidu Bengaluru [PAN :DALPS7755C]	Vs.	Income Tax Officer Circle-1 Nellore
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri K.A.Sai Prasad, AR	
राजस्व द्वारा / Revenue by:	Shri Rahul Singhanian, DR	
सुनवाई की तारीख / Date of Hearing:	06/05/2025	
घोषणा की तारीख / Date of Pronouncement:	14/05/2025	

आदेश / **ORDER**

**PER VIJAY PAL RAO, VICE PRESIDENT:**

This appeal filed by the assessee is directed against the order dated 11.12.2024 of Commissioner of Income Tax (Appeals) ["Ld.CIT(A)"], National Faceless Appeal Centre, Delhi for the A.Y.2014-15.

2. The assessee has raised the following grounds of appeal :
  1. The Learned First Appellate Authority is not justified in deciding the appeal without affording the appropriate and fair opportunity to the appellant.
  2. The Learned First Appellate Authority is not justified in dismissing the order after 2 years of time (Date of appeal is 12.10.2022 Date of order u/s 250 is 11.12.2024 with the reason of that delay in filing of appeal is not justifiable.
  3. The appellant reserves his right to add, amend, delete or substitute any ground or grounds during the course of the hearing.
3. The Ld.AR of the assessee has submitted that the Ld.CIT(A) dismissed the appeal of the assessee *in-limine* by treating the same as not maintainable, being barred by limitation. He has referred to para 2 of the impugned order and submitted that the reasons explained by the assessee for the delay in filing appeal are reproduced by the Ld.CIT(A), however, the Ld.CIT(A) has declined to condone the delay of 168 days. He has filed the details taken from ITBA platform and submitted that the notices issued by the Assessing Officer (“the AO”) was sent to the e-mail ID of tax consultant and not to the e-mail ID of the assessee and therefore, the assessee was not having knowledge of notices as well as the assessment order passed by the AO, before the same was received physically on 14.09.2022. Thus, the Ld.AR has submitted that the reasons explained by the assessee are bonafide and there is no deliberate or intentional delay on the part of the assessee to file the appeal

before the Ld.CIT(A). In support of his contentions, he has relied upon the order of this Tribunal dated 05.12.2024 in the case of Shri Satish Bandapelly vs ITO in ITA No.998 to 1001/Hyd/2024. The Ld.AR has further submitted that the assessee opted for Direct Tax Vivad Se Vishwas Scheme, 2024 to settle the tax dispute involved in the present appeal, however, the declaration of the assessee was rejected by the designated authority on the ground that there was no valid appeal pending on the specified date. Thus, the Ld.AR has pleaded that if the delay in filing appeal before the Ld.CIT(A) is condoned and the matter is remanded to the record of the Ld.CIT(A) for adjudication of the same on merits, then the assessee would avail the benefit of Direct Tax Vivad Se Vishwas Scheme, 2024 to settle the dispute. He has also filed a copy of the fresh declaration filed by the assessee under the Direct Tax Vivad Se Vishwas Scheme and submitted that in anticipation of the matter is remanded to the Ld.CIT(A), the assessee has again opted for Direct Tax Vivad Se Vishwas Scheme.

4. On the other hand, Ld.DR has objected to condonation of delay of 168 days in filing the appeal before the Ld.CIT(A). He has submitted that the reasons explained by the assessee are contrary to the record, as the AO issued notices as well as the assessment order to the email ID registered with the department. He has further submitted that the assessee has not produced any record to show that the assessee was actually issued copy of the impugned assessment order only on

14.09.2022. Thus, the Ld.DR has objected to the condonation of the delay.

5. We have considered the rival submissions as well as the material on record. The Ld.CIT(A) has reproduced the reasons explained by the assessee for the delay in filing the appeal in para 2 of the impugned order. Further, the Ld.CIT(A) has declined to condone the delay on the ground that as per the ITBP portal, the assessment order was issued and delivered through e-mail on 29.03.2022 and the assessee failed to submit any documentary evidence in support of the reasons for the delay in filing the appeal. Before us, the Ld.AR of the assessee has filed copies of the details taken from the ITBA portal regarding the notices issued by the AO as well as the assessment order sent to the e-mail ID of one REDDYCA123456789@GAMIL.COM, whereas the assessee has given email ID with the department as girishjs2004@rediffmail.com. Therefore, it is clear that the notices as well as the assessment order was sent by the AO to the email ID of the tax consultant of the assessee and not to the email ID of the assessee and thus, it can not be denied that the assessee might not have received the impugned assessment order sent to the email ID of the tax consultant. Even otherwise, when the assessee is settling the tax dispute under Direct Tax Vivad Se Vishwas Scheme, 2024, then the reasons explained by the assessee for the delay in filing the appeal before the Ld.CIT(A) cannot be rejected. This Tribunal in the case of Shri

Satish Bandapelly (supra) has considered the issue of condonation of delay in filing the appeal before the Ld.CIT(A) in para 9 as under :

*“9. Having considered the reasons explained by the assessee in the petition for condonation of delay as well as the contents of the affidavit, we find that the reasons are factually not in dispute, though there is a laxity on the part of the assessee to take necessary steps for filing the appeals within a reasonable period even after the extension of limitation granted by the Hon'ble Supreme Court due to covid 19 pandemic. However, the expression “sufficient cause” must be considered liberally in favour of the litigant approached the Court belatedly, so that the dispute could be decided as far as possible, on merit and not on technicalities. At the same time, the delay should neither be intentional nor for taking any undue benefit by the assessee. If the reasons explained by the assessee are bonafide and there is no element of deliberate delay or taking undue advantage in filing the appeal belatedly, then the concept of liberal interpretation must be applied while considering the sufficient cause for delay in filing the appeal. In the case in hand, the assessee has explained that the orders passed by the Assessing Officer u/s 147 r.w.s. 144 as well as the penalty orders passed u/s 271AAC(1), 271B and 271F of the I.T. Act, 1961 were not served upon the assessee physically, but these orders were sent to the email ID registered with the Department which could not come to the notice of the assessee due to non-functional email ID at the relevant point of time. Therefore, when the delay in filing the appeal was not with a malafide intention or achieving any ulterior purpose, or an attempt to save the limitation in under hand anyway, we are of the considered opinion that the appeals of the assessee must be decided on merits instead of dismissing on technical reasons. Accordingly, in the facts and circumstances of the case and in the interest of justice, the delay of 551 days in filing the appeal before the learned CIT (A) against the assessment orders and delay of 378 days in filing each appeal against the penalty order passed u/s 271AAC(1), 271B and 271F of the I.T. Act,*

*1961 are hereby condoned subject to a cost of Rs.1000/- for each appeal, total amounting to Rs.4000/- to be paid to the Prime Minister's National Relief Fund within a period 30 days from the date of this order. The assessee is directed to submit necessary proof with the Registry within a period of one month from the date of this order. Since the learned CIT (A) has not decided the appeals of the assessee on merits but, dismissed in limine, therefore, all these appeals are remanded to the record of the learned CIT (A) for adjudication on merits after giving an appropriate opportunity of hearing to the assessee. The assessee is directed to update his email ID and also submit the same before the learned CIT (A) so that there should not be non-compliance of the notices issued by the learned CIT (A) in remand proceedings."*

6. Accordingly, in the facts and circumstances of the case and in the interest of justice, we condone the delay of 168 days in filing the appeal before the Ld.CIT(A). Since the Ld.CIT(A) has not decided the appeal of the assessee on merits, as the same was dismissed *in-limine*, therefore, the impugned order of the Ld.CIT(A) is set aside and the matter is remanded to the record of Ld.CIT(A) for adjudication of the appeal of the assessee on merits, after giving appropriate opportunity of hearing to the assessee.

7. In the result, appeals filed by the assessee is allowed for statistical purpose.

**ITA No.63 /Hyd/2025**  
**Gangavarapu Sreenivasulu Naidu** 

Order pronounced in the Open Court on 14<sup>th</sup> May, 2025.

**Sd/-**

**Sd/-**

<b>(MADHUSUDAN SAWDIA)</b> <b>ACCOUNTANT MEMBER</b>	<b>(VIJAY PAL RAO)</b> <b>VICE PRESIDENT</b>
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Hyderabad,  
Dated 14<sup>th</sup> May, 2025  
**L.Rama, SPS**

Copy to:

S.No	Addresses
1	Shri Gangavarapu Sreenivasulu Naidu, #41, 1 <sup>st</sup> d 15 <sup>th</sup> cross, BKBK Nagar, Yeshwanthapura, Bengaluru
2	The Income Tax Officer, Circle-1, Income Tax Office, 24-2-438, 1 <sup>st</sup> Floor, GT Road, Nellore
4	The Pr. Commissioner of Income Tax, Tirupathi
4	The DR, ITAT Hyderabad Benches
5	Guard File

*By Order*