

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

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.261/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2020-21)

Shri Maheub Samsuddin Panjwani, Hyderabad PAN:AIQPP2937D (Appellant)	Vs.	Dy.CIT Circle 8(1) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:		Shri Ravi Gupta, CA
राजस्व द्वारा/Revenue by:		Dr. Sachin Kumar, DR
सुनवाई की तारीख/Date of hearing:	15/05/2025	
घोषणा की तारीख/Pronouncement:	16/05/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated, 25/10/2024 of the learned CIT (A)-NFAC Delhi, for the A.Y.2020-21.

2. There is a delay of 49 days in filing the present appeal. The assessee has filed an application for condonation of delay which is supported by an affidavit by the assessee explaining the cause of the delay.

3. We have heard the learned AR and the learned DR on the condonation of delay. The learned AR of the assessee has submitted that the assessee proceedings were going on during the Covid Pandemic 2019 and therefore, the assessee could not participate in the assessee proceedings and consequently, the order was passed by the Assessing Officer ex-parte u/s 144 of the I.T. Act, 1961. The learned CIT (A) also passed an ex-parte order and dismissed the appeal of the assessee in limine for non-prosecution. The non-participation of the assessee before the learned CIT (A) is also due to non-communication of the alleged notices issued by the learned CIT (A). The learned AR has further submitted that due to the confusion about the filing of the appeal before the Delhi and Hyderabad Benches of the Tribunal, there was a delay in filing the present appeal. Thus, he has submitted that the delay in filing the appeal is neither intentional nor willful but, it was because of the confusion about the jurisdiction of the Tribunal in filing the appeal against the impugned order passed by the learned CIT (A) NFAC. The Legal Tax Consultant of the assessee was of the view that the appeal against the order passed by the learned CIT (A) NFAC Delhi lies before the Delhi Tribunal. However, on further consultation, the assessee was then advised that the appeal against the impugned order would lie before the Hyderabad Benches of the Tribunal. Thus, he has submitted that due to this confusion of the Tax Consultant about the jurisdiction of the Tribunal, there is a delay of 49 days in filing the present

appeal which may be condoned and the appeal of the assessee be admitted for adjudication on merits.

4. On the other hand, the learned DR has submitted that the assessee has not explained the reasonable cause for the delay in filing the present appeal. The reasons explained by the assessee are very vague and therefore, in view of the conduct of the assessee not responding to the notices issued by the Assessing Officer as well as the learned CIT (A), the delay in filing the appeal could not condoned.

5. We have considered the rival submissions as well as perused the reasons explained by the assessee in the application for condonation of delay as well as in the affidavit filed by the assessee. Despite various notices issued by the Assessing Officer as well as the learned CIT (A) NFAC, the assessee did not respond to any of the notices and therefore, both the Assessing Officer and the learned CIT (A) have passed the ex-parte orders. The conduct of the assessee seems to be negligent. However, since the learned CIT (A) has passed the impugned order ex-parte and dismissed the appeal of the assessee in limine for non-prosecution, therefore, in the facts and circumstances of the case and in the interest of justice, we take a lenient view to condone the delay of 49 days in filing the present appeal subject to a cost of Rs.5000/- to be deposited in the Prime Minister's National Relief Fund within a period of 30 days from the date of this order. Hence, subject to

the cost of Rs.5000/-, the delay of 49 days in filing the present appeal is condoned.

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

- 1) In the facts and circumstance of the case and in law; the Ld. Commissioner of Income Tax Appeals has erred in sustaining the action of the Ld. Assessing Officer who has disallowed loss of Rs. 2,00,000/- claimed under the head of Income from House Property disregarding the factual and legal matrix of the case.
- 2) In the facts and circumstance of the case and in law; the Ld. Commissioner of Income Tax Appeals has erred in sustaining the action of the Ld. Assessing Officer who has made impugned addition of Rs. 1,82,98,661/- under section 68 of the Act (being difference between the amount of outstanding loans for the relevant Assessment year viz-a-viz the preceding Assessment Year) disregarding the factual and legal matrix of the case.
- 3) In the facts and circumstance of the case and in law; the Ld. Commissioner of Income Tax Appeals has erred in sustaining the action of the Ld. Assessing Officer who has made impugned addition of Rs. 1,59,37,339/ purely on the basis of surmises/conjecture by estimating profit rate 8.98% as against declared profit rate of 7.40%; disregarding the factual and legal matrix of the case.
- 4) In the facts and circumstance of the case and in law; the Ld. Commissioner of Income Tax Appeals has erred in sustaining the action of the Ld. Assessing Officer who has concluded the assessment under section 144 in utter disregards to the principles of natural justice and in violation of the Standard Operating Procedure issued by the Central Board of Direct Taxes dated 03.08.2022.
- 5) The Appellant craves leave to add, delete, amend, modify any or all of the above grounds. All the above referred grounds are without prejudice to each other.

7. We have heard the learned AR and the learned DR and carefully perused the impugned order of the learned CIT (A). The

learned CIT (A) has issued 3 notices dated 12/09/2024, 27/09/2024 and 14/10/2024, but there was no response on behalf of the assessee to the said notices issued by the learned CIT (A). It is clear from the notices issued by the learned CIT (A) that all the 3 notices were issued within a span of one month. Further, the learned CIT (A) has not decided the appeal of the assessee on merit but the same is dismissed for non-prosecution which is not in accordance with the provisions of section 250(6) of the I.T. Act, 1961. Accordingly, the impugned order of the learned CIT (A) is set aside and since the Assessing Officer has also passed the assessment order ex-parte, therefore, the matter is remanded to the record of the Assessing Officer for fresh adjudication after giving one more opportunity of hearing to the assessee. The assessee is also directed to cooperate in the proceedings before the Assessing Officer and not to seek any adjournment. We order accordingly.

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

Order pronounced in the Open Court on 16th May, 2025.

Sd/-

Sd/-

(MANJUNATHA, G.) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 16th May, 2025

Vinodan/sps

Copy to:

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2	Dy. CIT, Circle 8(1) Signature Towers, Hyderabad
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order