

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam "Division" Bench, Visakhapatnam

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri S. Balakrishnan, Accountant Member

आ.अपी.सं / **ITA No.167/Viz/2025**
(निर्धारण वर्ष / Assessment Year: 2013-14)

Shri Manne Hareesh TENALI PAN:AAIHM7635M (Appellant)	Vs.	Income Tax Officer Ward 1 (1) GUNTUR (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri C.Subramanyam, CA	
राजस्व द्वारा / Revenue by::	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख / Date of hearing:	01/05/2025	
घोषणा की तारीख / Pronouncement:	13/05/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 23/01/2025 of the learned CIT (A)-NFAC Delhi, for the A.Y.2013-14.

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

"1. That, on the facts and circumstances of the case and in law, the order u/s 147 r.w.s. 144 r.w.s. 144B of the IT Act,

1961, dt. 19.03.2022, as upheld by the Ld. CIT(A), NFAC, vide order passed u/s 250, dt. 23.01.2025, is contrary to the facts of the case and the provisions of law.

2. The Ld. CIT(A) disposed of the appeal without duly considering the Submissions and evidence submitted by the assessee, which clearly substantiated that the alleged unexplained cash deposits of Rs.2,92,42,150/- as identified by the AO were incorrect. The actual deposits in the bank account amounted to only Rs. 65,14,050/-.

3. The Ld. CIT(A) failed to consider the explanation provided by the assessee regarding the cash deposits of Rs.65,14,050/-, and erroneously observed that no written submissions or documentary evidence had been furnished, which is factually incorrect.

4. The Learned CIT(A) issued notice u/s. 250 dt. 29.03.2024, granting the assessee time until 10.04.2024 to file submissions. The assessee duly complied by filing submissions along with supporting evidence on 01.04.2024. However, the CIT(A) failed to acknowledge the same and proceeded to dispose of the appeal through an order dt. 23.01.2025, as if no response had been filed. This action is in clear violation of the principles of natural justice and due process of law.

5. The ex-parte disposal of the appeal by the Ld. CIT(A) contravenes the provisions of Section 250(6) of the IT Act, which mandates that the appeal be adjudicated on its merits with due consideration of the facts and submissions presented.

6. The Ld. CIT(A) ought to have held that the assessment order was not sustainable, particularly when the assessee was granted time until 17.03.2022 to respond, but the online submission window was disabled on 16.03.2022, effectively depriving the assessee of the opportunity to present its case. Under these circumstances, the impugned order ought to have been quashed as untenable in law.

7. For these and other reasons that may be urged at the time of hearing, the appellant prays that the orders passed u/s

250 of the IT Act be set aside and the additions made by the AO be deleted.”

3. At the time of hearing, the learned AR of the assessee has submitted that the learned CIT (A) has passed the impugned order ex-parte by giving the reasons that the assessee has not furnished any new or substantial written submission or documentary evidence in support of his grounds. The learned AR has referred to the notice issued by the learned CIT (A) dated 29/03/2024 placed at page No.2 of the paper book whereby the assessee was asked to submit the written submission on or before 10/04/2024. The learned AR has referred to the acknowledgement of filing the submission placed at page No.3 of the paper book and submitted that the assessee filed the submission on 01/04/2024 in response to the notice much prior to the date of compliance dated 10/04/2024. The learned AR then referred to the concluding para No.5.2 of the order of the learned CIT (A) and submitted that the appeal of the assessee was dismissed without considering the written submission filed by the assessee. Thus, the learned AR has stated that the impugned order of the learned CIT (A) may be set aside and the matter may be remanded to the record of the learned CIT (A) for fresh adjudication on merits.

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

5. We have considered the rival submissions and carefully perused the order passed by the learned CIT (A). In para 4 of the impugned order, the learned CIT (A) has recorded the statement of facts as under:

4. Statement of Facts:

The appellant is under Hindu Undivided family status. The appellant for the assessment year 2013-14 has not filed the return of income as there is no taxable income during the year. During the year there is only agriculture income. The assessing officer completed the assessment u/s 147 RWS 144 of the I.T. Act on 19.03.2022. The assessing officer taxed the entire amount deposited in bank account. The assessing officer has given us time up to 17-03- 2022 to file our submissions. When we tried to submit our submissions on 16-03-2022(One day before due date) submission option was disabled, in spite of that we have submitted our submissions using "reply" option in penalty notice which was kept opened on that day but the assessing officer has not considered our submissions filed and passed the assessment order. It is against the said order of Assessment, appellant is filing the present appeal.

5. Thus, it is clear that the assessee has pointed out that the Assessing Officer issued notice dated 19/03/2022 giving time up to 17/03/2022 to file the submission. The assessee tried to submit the submission on 16/03/2022 one day prior to the compliance date, however, the option was disabled before the due date and the assessee then submitted the submission through another option using reply in penalty notice. Further, we note that

the learned CIT (A) has issued notice dated 29/03/2024 for production of submission and documents on or before 10/04/2024. The assessee has filed the acknowledgement of the submission of the written submission and documents dated 1/4/2024. However, the learned CIT (A) has dismissed the appeal of the assessee in para 5.2 as under:

5.2. It is further noted and as detailed in preceding para above that during the appellate proceedings, the appellant has not furnished any substantial evidence in support of its grounds of appeal. The appellant has challenged the addition in the different grounds of appeal. However, the appellant has not furnished any new or substantial written submission or documentary evidence in support of its grounds of appeal challenging the addition. The appellant has also not submitted any copy of its written submission or documentary evidence filed during the assessment proceedings. The onus lies on the appellant to support any claim by bringing in cogent documentary evidence. In absence of any substantial written submission or documentary evidence in support of its grounds of appeal, I have no basis to take a contrary view in the appellate proceedings as I have no reason to interfere with the assessment order. As such, I do not find any infirmity in the order of Assessing Officer. Therefore, **Addition of Rs.2,92,42,150/-is hereby sustained on merits (Assessed total income of Rs. 2,92,42,150/-).**

6. Thus, it is manifest from the impugned order of the learned CIT (A) that the impugned order was passed without considering the submissions uploaded on 1/4/2024. Hence, in the facts and circumstances of the case and in the interest of justice, 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 on merits after giving an appropriate opportunity of hearing to the assessee.

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

Order pronounced in the Open Court on 13th May, 2025.

Sd/-

Sd/-

(S. BALAKRISHNAN) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 13th May, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Manne Hareesh, D.No.7-1-28 No.501 Paradise Apartments, Opp: Bus Stand, Ganganammamet, Tenali 522201 A.P
2	Income Tax Officer Ward 1(1) CR Building, Kannavari Thota, Guntur 522001 A.P
3	Pr. CIT – Guntur
4	DR, ITAT Vizag Bench
5	Guard File

By Order