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IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

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BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.330/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2017-18)

Kandakatla Sudershan Reddy (HUF), Hyderabad. PAN:AAEHK0268K	Vs.	Asst. Commissioner of Income Tax, Circle-15(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:		Shri Sashank Dundu, Advocate
राजस्व द्वारा / Revenue by:		Shri Rakesh Chintagumpula, SR-DR
सुनवाई की तारीख / Date of hearing:		07/05/2025
घोषणा की तारीख / Pronouncement:		16/05/2025

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M. :

This appeal is filed by Shri Kandakatla Sudershan Reddy (HUF) ("the assessee"), feeling aggrieved by the order passed by the Learned ADDL/JCIT(A)-1, Kolkata ("Ld. First Appellate Authority"), dated 25.06.2024 for the A.Y. 2017-18.

2. At the outset it is seen that, there is a delay of 178 days in filing the appeal before the Tribunal. The assessee has filed a condonation petition along with an affidavit explaining the reason for the delay. The learned Authorised Representative ("Ld. AR") submitted that the Karta of the assessee-HUF was

suffering from acute lumbar strain at L4-L5 with radiating pain in the leg and was medically advised for complete bed rest from 01.07.2024 to 15.09.2024. In support, the assessee has also filed a copy of the medical certificate. It was further submitted that even after the prescribed rest period, the assessee was unable to focus on tax matters due to uneasiness caused due to consistent sever pain . Only upon full recovery on 10.01.2025, the assessee became aware of the dismissal of appeal by the Ld. First Appellate Authority. After consulting the tax advisor, the appeal was filed before the Tribunal, resulting in the present delay.

2.1 The Ld. AR contended that the delay was neither intentional nor due to negligence, and there was no malafide intention on the part of the assessee. On the other hand, the learned Departmental Representative (“Ld. DR”) opposed the condonation, stating that the reasons given were not sufficient.

2.2 We have heard the rival submissions and perused the material available on record. Considering the facts stated in the affidavit, the supporting medical documents, and the overall circumstances, we are satisfied that the delay in filing the appeal was due to a reasonable cause. Accordingly, the delay of 178 days in filing of this appeal is condoned and the appeal is admitted for adjudication.

3. Brief facts of the case are that, the assessee is an HUF, filed its return of income ("ROI") for A.Y. 2017–18 on 31.07.2017 admitting total income of Rs.7,71,400/-. The case of the assessee was selected for scrutiny and notice u/s 143(2) of the Income Tax Act,1961 ("the Act") was issued on 17.08.2018. During the course of assessment proceedings, it was noticed by the learned Assessing Officer ("Ld. AO") that the assessee had deposited a sum of Rs.8,00,000/- in cash in its bank account on 16.11.2016, i.e., during the demonetisation period. The Ld. AO called upon the assessee to explain the source of the cash deposit.

3.1 In response, the assessee explained that the said cash was out of rental income received from house property during the financial years 2015–16 and 2016–17. However, the Ld. AO disbelieved the explanation, particularly doubting the claim that the rent received in F.Y. 2015–16 amounting to Rs.6,39,100/- was kept in cash and deposited during the demonetisation period. The Ld. AO held the explanation to be unsubstantiated and added Rs.6,39,100/- as unexplained income u/s 69A of the Act. Finally the Ld. AO completed the assessment u/s 143(3) of the Act on 23.12.2019 computing the total income at Rs.14,10,500/-.

4. Aggrieved with the order of Ld. AO, the assessee filed appeal before the Ld. First Appellate Authority, who dismissed the appeal, observing that the

assessee failed to provide adequate documentary evidence in support of the claim.

5. Aggrieved with the order of Ld. First Appellate Authority the assessee is in appeal before the Tribunal. Before us, the Ld. AR submitted that, the assessee was in regular receipt of rental income from house property. In support of their submission, the Ld. AR invited our attention to copy of ROI for A.Y. 2015–16 (Page Nos. 2 to 4 of the paper book), copy of ROI for A.Y. 2016–17 (Page Nos. 8 to 10 of the paper book) and copy of ROI for A.Y. 2017–18 (Page Nos. 15 & 16 of the paper book). It was submitted that the rental receipts were consistent across the years and were part of the declared income. The Ld. AR pointed out that the Ld. AO has not disputed the fact of ownership of the house property or the rent being received via banking channels instead of cash. The only objection of the Ld. AO was that the rent for F.Y. 2015–16 was not immediately deposited in the bank and was claimed to be deposited during the demonetisation period, which was considered implausible by the Ld. AO. It was strongly argued that the entire basis of the addition is mere suspicion and no cogent evidence has been brought on record to rebut the explanation offered by the assessee. Accordingly, the Ld. AR prayed before the bench to delete the addition made by the Ld. AO.

6. Per contra, the Ld. DR objected to the arguments and submitted that the assessee had not filed any cash flow statement or contemporaneous documentary evidence in support of rent receipt. It was argued that the assessee failed to discharge the burden of proof and thus the lower authorities were justified in making the addition. Accordingly, the Ld. DR prayed before the bench to dismiss the appeal of the assessee.

7. We have heard the rival submissions and also gone through the record in the light of the submissions made by either side. We have gone through the copy of ROI for A.Y. 2015–16 (Page No. 2 to 4 of the paper book), copy of ROI for A.Y. 2016–17 (Page Nos. 8 to 10 of the paper book) and copy of ROI for A.Y. 2017–18 (Page Nos. 15 & 16 of the paper book) and found that the assessee is showing regularly the rental income from house property. Further, there is no dispute by the Ld. AO regarding the ownership of the property or the regularity of rent receipt. The source of deposit has been explained by the assessee as accumulated house rent from prior years. The Ld. AO's only objection is the timing of deposit, doubting that cash could not be retained from F.Y. 2015–16 until November 2016. Once the assessee explained the source of deposits in the bank account as rental income, then in the absence of any contrary material brought on record, the same cannot be rejected. The entire addition appears to be based only on suspicion without any concrete rebuttal to the

assessee's claim. Considering the consistency of rent receipts, absence of any contrary evidence, and the principle that suspicion, however strong, cannot take the place of proof, we find merit in the assessee's explanation.

8. In view of the above, we are of the considered opinion that the addition made u/s 69A of the Act is unsustainable. Accordingly, the addition of Rs. 6,39,100/- made by the Ld. AO and confirmed by the Ld. First Appellate Authority is deleted.

9. In the result, the appeal filed by the assessee is allowed.

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

Sd/-
(VIJAY PAL RAO)
VICE PRESIDENT

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad.
Dated: 16.05.2025.

* *Reddy gp*

Copy of the Order forwarded to :

1.	<u>Shri Kandakatla Sudershan Reddy (HUF), No.1-5-1037, Plot No.65, Father Balaiah Nagar, Old Alwal, Secunderabad-500010</u>
2.	<u>ACIT, Circle 15(1), Hyderabad.</u>
3.	Pr.CIT, Hyderabad.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,

