

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

**श्री विजय पाल राव, उपाध्यक्ष एवं**  
**श्री मंजूनाथा जी, लेखा सदस्य के समक्ष ।**  
**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND**  
**SHRI MANJUNATHA G, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.1216/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

Shri Sanjay Darsi, Nellore. PAN:AEGPD0569M (Appellant)	<b>Vs.</b>	Income Tax Officer, Ward-1, Nellore. (Respondent)
निर्धारिती द्वारा / Assessee by:		Sri Sai Keerthana, C.A.
राजस्व द्वारा / Revenue by:		Dr. Sachin Kumar, SR-DR
सुनवाई की तारीख / Date of hearing:		08/04/2025
घोषणा की तारीख / Pronouncement:		21/05/2025

**आदेश/ORDER**

**PER SHRI VIJAY PAL RAO :**

This appeal by the assessee is directed against the order dated 15.02.2024 of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

2. There is a delay of 206 days in filing the appeal. The assessee has filed petition for condonation of delay which is supported by Affidavit.

3. We have heard the Ld. Authorised Representative and Ld. Department Representative on condonation of delay in filing the present appeal. The Ld. AR of the assessee has submitted that the assessee is an NRI and resident of USA. The assessee was not aware even about the assessment proceedings and engaged a tax consultant in India to handle the tax proceedings including filing of appeal and receipt of notices of the tax authorities. However, due to unfortunate lapse on the part of the consultant, the assessee could not receive any communication from the tax authorities and therefore, the assessment order was passed *exparte* against which the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) also dismissed the appeal in *limine* as barred by limitation. The order passed by the Ld. CIT(A) was also not in the knowledge of the assessee and only when the assessee visited India on 30th October, 2024, he ascertained the status of the tax matters and came to know about the impugned order passed by the Ld. CIT(A) and then filed the present appeal without any further delay. Thus the Ld. AR has submitted that the delay in filing the present appeal is neither intentional nor deliberate but due to unavoidable circumstances which were beyond the control of the assessee. He has pleaded that the assessment order as well as impugned order of Ld. CIT(A) were passed *exparte*. The delay in filing of the appeal may be condoned and the appeal may be admitted for adjudication on merits.

4. On the other hand, the Ld. DR has vehemently objected to the condonation of delay and submitted that the assessee has not explained any reasonable cause for the delay in filing the present appeal and has shifted the blame on the tax consultant without any supporting evidence. The assessee cannot take a plea that the circumstances was beyond the control of the assessee for the delay in filing the present appeal. The Ld. DR has further submitted that even before the Ld. CIT(A) there was a delay of 14 months and the assessee failed to explain the reasonable cause, thus the assessee is a habitual non-complier of the notices issued.

5. We have considered the rival submissions and carefully perused the contents of the petition for condonation of delay as well as the Affidavit filed by the assessee explaining the delay of 206 days in filing the present appeal. It is undisputed fact that the assessee is NRI and stays outside India. He arrived in India on 30.10.2024 and thereafter he filed appeal on 22.11.2024. So far as the assessee was staying outside India, there is no quarrel that the assessee was personally not available in India to take steps, however, the appeal could have been filed by the assessee through his tax consultant digitally. We further noted that there was a delay in filing the appeal before the Ld. CIT(A) by 14 months and the appeal was dismissed by the Ld. CIT(A), in limine. Therefore, we find that the assessee has shown a casual approach to tax matters. However, at the same time, we note that the Assessing

Officer while passing the order has made an addition of entire credit in the bank account of the assessee. The details of which are given at page no.2 of his order as under :

S.No	Name of the Bank and A/c. No.	Cash Deposits	Other credits RTGS/ NEFT/ Cheques	Total Credits	Cash deposits during the demonetisation period
1.	Andhra Bank A/c. No. 051710100046595	14,50,000	72,29,686	86,79,686	12,50,000
	Total:	14,50,000	72,29,686	86,79,686	12,50,000

5.1 The total cash deposit in the bank account was only Rs.14,50,000/- but the Assessing Officer has made entire amount of Rs.86,97,686/- as addition and assessed to tax. The assessee filed the additional evidence before the Ld. CIT(A) but the same was not examined and therefore, the source of the deposit has not been verified and examined either by the Assessing Officer or by the Ld. CIT(A). The assessment order was passed on 30.11.2019 which was very much the period of advent of Covid '19 pandemic as well as the restrictions of the flight movements during the said period. Thus, having considered the facts and circumstances of the case, we take a lenient view and condone the delay of 206 days in filing the appeal subject to payment of cost of Rs.5,000/- to be paid to the Prime Minister National relief fund within a period of 30 days from the date of this order. The appeal is taken up for adjudication.

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

S.No	Grounds of Appeal
1	On the facts and Circumstances of the case the order passed of Ld. CIT(A) is erroneous both on facts and in law.
2	The Ld. CIT[A] is not justified in refusing to condone the delay in filing the appeal without appreciating the fact that the appellant was a non-resident, unaware of proceedings and promptly filed the appeal on becoming aware of assessment order passed.
4	Without prejudice, the Ld. CIT(A) ought to have recognized that the assessment order passed by the Assessing Officer, Ward 1, Nellore, is void ab initio, as the assessee is a non-resident residing in the United States of America and the jurisdiction lies with the ITO, Ward-1, International Taxation, Nellore.
5	The Ld. CIT(A) ought to have appreciated the fact that, the jurisdiction for non-resident taxpayers lies with the Chief Commissioner of Income Tax (International Taxation), and the Assessing Officer was not empowered under Section 127 to make the assessment in the case of the assessee.
6	Without prejudice to the above, the Ld. CIT(A) erred in confirming the cash deposits made by the assessee of Rs.14,50,000 and bank credits of Rs.72,29,686 as unexplained Income of the assessee without appreciating the facts of the case.
7	The Ld. CIT(A) ought to have appreciated the fact that the assessee during the year under consideration has sold the property for Rs.55,00,000 on 16.12.2016 and the same has been deposited in the bank account of the assessee.
8	The Ld. CIT(A) ought to have appreciated the fact that the assessee had incurred losses on the sale of the said property as the assessee has purchased the property for Rs.1,30,00,000 on 05.08.2014 by availing a Housing loan from HDFC.
9	The Ld. CIT(A) ought to have appreciated the fact that the assessee has received amounts from kith and Kin, the amounts received was utilised for the purpose of repaying the Loan

10	The assessee may add, alter, or modify or substitute any other points to the grounds of appeal at any time before or at the time of hearing of appeal.
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7. We have heard the Ld. AR as well as Ld. DR. The Ld. CIT(A) has not adjudicated the appeal on merits but the same was dismissed in limine while declining the condonation of delay in filing the appeal before him. There is no dispute that there is a delay of 14 months in filing the appeal before the Ld. CIT(A), the assessee explained the cause of delay in Form 35 as under :

*“ The appellant is an NRI staying in India he has not visited India after 10.04.2018 to India. Meanwhile assessment proceedings were initiated and completed under section 144 of the Income Tax Act. The notices and orders served on the mother of the appellant. As she is not keeping good health after the demise of her husband failed to inform the appellant and misplaced the same. After the attachment of the bank account, the appellant came to know about proceedings of the department. He has contacted one of his friend who is tax consultant but he has expressed his inability to file the appeal as he is not aware of the procedures of appeal matters. The delay is also caused due to the pandemic and he could not visit India as there were no flights during the period. On the advice of his friends and relatives, the appellant approached another tax consultant who prepared and filed the present appeal. The delay occurred due to the collecting the information from the bank authorities and getting digital signature for uploading the appeal. The above facts mentioned are true and correct to the best of my knowledge. The delay in filing of the appeal is not intentional and hence it is requested to the Honourable Commissioner of Income Tax Appeals to kindly condone the delay of 390 days in filing the appeal. The ongoing pandemic, the collection of material etc has caused*

*inordinate delay in filing the appeal as the appellant is not staying in India. Kindly condone the delay and oblige.”*

8. Having regard to the fact that the assessment order was passed on 30.11.2019 and thereafter there was various restrictions of the movements in general as well as the movements of international flights. The assessee being an NRI staying in US could not take appropriate steps in time for filing the appeal before the Ld. CIT(A). Further, the Assessing Officer has made the addition of entire credits in the bank account including the bank transfers. Therefore, the source of credit and deposit was required to be explained. Accordingly, in the facts and circumstances of the case and in the interest of justice, we condone the delay in filing the appeal before the Ld. CIT(A). Since the order passed by the Assessing Officer as well as the Ld. CIT(A) were exparte, therefore, the matter is remanded to the record of Assessing Officer for fresh adjudication after verification and examination of the record and details to be filed by the assessee to explain the source of deposit / credits in the bank account of the assessee.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open Court on 21st May, 2025.**

**Sd/-**

**(MANJUNATHA G)  
ACCOUNTANT MEMBER**

Hyderabad, Dated: 21.05.2025.

\* Reddy gp

**Sd/-**

**(VIJAY PAL RAO)  
VICE PRESIDENT**

**Copy of the Order forwarded to :**

1.	Shri Sanjay Darsi, 4-4-222, Lakshmi Sai Nagar, Nellore-524002 A.P.
2.	ITO, Ward-1, Nellore.
3.	Pr.CIT, Tirupati.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,