

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद “ए” बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad “SM-A” Bench, Hyderabad**

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य  
**SHRI RAVISH SOOD, HON’BLE JUDICIAL MEMBER**  
**AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.434/Hyd/2025  
(निर्धारण वर्ष/ Assessment Year : 2019-20)

Venkataratnam Tiriminchi, Koduru.  PAN : ATQPT9576M.	Vs.	Income Tax Officer, Ward – 1, Nellore.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri S. Prasad Rao, C.A. (Appeared through Hybrid Mode)
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Ms. Vishnu Priya, Sr.D.R
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	02.06.2025
घोषणा की तारीख/Date of Pronouncement	:	02.06.2025

**ORDER**

प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 11.06.2024,

which in turn arises from the order passed by the Assessing Officer (for short "A.O.") u/s 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (for short "the Act") dated 30.11.2023 for A.Y. 2019-20. The assessee has assailed the impugned order on the following grounds of appeal before us :

"1. The ex parte passed by the Hon'ble CIT(A) is bad either on the facts of case or in law. The order passed by the CIT(A) is against the principles of natural justice, as it was decided ex parte without providing the appellant a fair opportunity to present his case or address the issues on merits. The CIT(A) erred in dismissing the appeal solely on the ground of non-appearance without examining the merits of the case, which goes against established judicial precedents emphasizing adjudication based on substantive issues.

2. The CIT(A) passed the order in a mechanical manner without independently verifying the facts of the case or evaluating the evidence on record, thereby rendering the order arbitrary and unjust. The CIT(A) is erred in not going through the statement of facts along with evidences which clearly shows that the appellant has deposited cash of only Rs 16000 and Rs.80000 as mentioned by the AO. The CIT(A) is erred in not going through the statement of facts along with evidence which clearly shows that the appellant has sufficient sources for deposit of cash of Rs 16000/-.The appellant is having cash balance of Rs 1,03,500/-(copy of the ROI for the AY 2018-19 enclosed). The non-appearance of the appellant during the hearing was due to bona fide and reasonable circumstances as the appellant is uneducated and not used to check the mail regularly.

3. The CIT(A) disregarded the binding judicial precedents and guidelines emphasizing that appeals should be decided on merits rather than dismissed for procedural lapses like non-appearance. The appellant intends to rely on the case laws as mentioned in the statement of facts."

2. Shri S. Prasad Rao, C.A. the learned Authorized Representative (for short "ld.AR") for the assessee, at the threshold of hearing of the appeal, submitted that the present appeal filed by the assessee involves a delay of 192 days. Elaborating on the reasons leading to the delay, the Ld. AR submitted that the same had crept in for the reason that the assessee at the relevant point of time was taken medically unwell. The Ld. AR to buttress his claim had taken us to the "affidavit" and also the medical prescriptions of the assessee.

3. Per contra, Ms. Vishnu Priya, the learned Senior Departmental Representative (for short "ld. DR") submitted that considering the reasons leading to the delay in filing of the appeal, she has no objection if the same is condoned.

4. We have given a thoughtful consideration to the explanation of the assessee regarding the delay of 192 days involved in filing of the present appeal. As there are justifiable reasons leading to the delay in filing of the appeal, therefore, we are of the view that the same in all fairness merits to be condoned. Our aforesaid view that a liberal approach should be adopted while considering an

application filed by an appellant seeking condonation of the delay involved in filing of the same is supported by the judgment of the **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal vs. The Income Tax Officer, Ward-2, Ambikapur in Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31<sup>st</sup> January, 2025**, wherein the Hon'ble Apex Court while setting aside the order of the Hon'ble High Court of Chhattisgarh, which had approved the declining of the condonation of delay of 166 days by the Income Tax Appellate Tribunal, Raipur Bench, had observed, that a justice oriented and liberal approach should be adopted while considering the application filed by an appellant seeking condonation of the delay involved in filing of the appeal. We thus, in terms of our aforesaid observation, condone the delay of 192 days involved in filing of the present appeal by the assessee before us.

5. Succinctly stated, the A.O. based on specific information that though the assessee had during the subject year made cash deposits in his bank account and was also in receipt of interest income, but had not filed his return of income for the said year i.e.

A.Y. 2019-20, initiated proceedings under Section 147 of the Act. Thereafter, a notice u/s 148 of the Act was issued by the A.O.

6. As the assessee despite sufficient opportunities failed to comply with the notices issued u/s 142(1) of the Act, therefore, the A.O. was constrained to proceed with and frame the assessment to the best of his judgment u/s 144 of the Act.

7. As the assessee had failed to come forth with any explanation, regarding the source of the cash deposits in his bank accounts, as well the interest income received therefrom, the A.O. called for the requisite details from bank u/s 133(6) of the Act, which however were not made available.

8. Ostensibly, the A.O. observed that the assessee during the subject year had though made cash deposits of Rs.80,000/- in his bank account with Bank of Baroda but had failed to provide any explanation regarding the source of the same. Also, it was observed by him that the assessee had during the year under consideration received interest income amounting to Rs.98,689/- from Bank of Baroda. Considering the aforesaid facts, the A.O. vide his order u/s 147 r.w.s. 144 r.w.s.144B of the Act, dated

30.11.2023 determined the income of the assessee at Rs.1,78,689/- after making the additions on the aforesaid issues, viz. (i). Addition u/s 69A of the unexplained money deposited in the bank account: Rs.80,000/-; (ii). Interest income received from bank: Rs.98,689/-.

9. Aggrieved, the assessee carried the matter in appeal before the CIT(A). As the assessee, despite having been afforded 4 opportunities i.e., vide notices dated 01.01.2024, 24.04.2024, 15.05.2024 and 28.05.2024 failed to participate in the proceedings, therefore, the CIT(A) on the said count itself dismissed the appeal by observing as under :

“4. During the course of appellate proceedings vide notice dated 01.01.2024, 24.04.2024, 15.05.2024 and the final opportunity was given on 28.05.2024 and requested the appellant to file the submission by 03.06.2024 and stated in the notice as under-

"Last Opportunity is being given to submit your reply on or before 03.06.2024 failing which case will be decided on merits based on the available records."

However, no submissions were made by the appellant. The appellant during the appellate proceedings did not comply with the notices and hence made no submission in support of grounds of appeal. So, it is held that the appellant had nothing more to submit except for raising the ground.

4.1 The Hon'ble ITAT in ITA No. 1025-1027/Chandi/2005 for the A.Y. 2002-03 in the case of M/s Chhabra Land and Housing Ltd. after following the decision of Hon'ble Supreme Court in the case of B.N. Bhattachargee, 118 ITR 461 (SC) held that the appeal does not mean merely filing of the appeal but effectively pursuing it. Keeping in view of

the aforesaid factual position, the appeal filed by the appellant is, therefore, decided on merits.

5. In the instance of the case the appellant failed to make any submissions in support of grounds of appeal, this gives rise to an undisputable conclusion that the assessee has got nothing more to say in this regard. I have gone through the record before me and based on the record I have decided to adjudicate the issue on the merits of the case. In the instant case the AO has rightly assessed an income of Rs. 1,78,689/-. Since the appellant failed to substantiate appellant's claim and addition made by the Assessing Officer of Rs. 1,78,689/- is hereby confirmed.

6. Grounds No.1 to 8 of the appeal are dismissed.”

10. As is discernible from the record, it transpires that the CIT(A) while disposing of the appeal had failed to advert to the specific grounds of appeal based on which the impugned assessment order was assailed by the assessee before him and had simply dismissed the appeal for want of prosecution.

11. We are unable to persuade ourselves to subscribe to the manner in which the appeal had been disposed of by the CIT(A) vide a non-speaking order for want of prosecution. Our aforesaid view that the CIT(A) is obligated to dispose off an appeal vide a speaking order and cannot dismiss the same simpliciter on the ground of want of prosecution is fortified by the judgment of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**. In the

aforementioned case the Hon'ble High Court had observed as under:

"8. From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Sec. 251(1)(a) and (h) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-s. (2) of s. 251 of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under s. 246A of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non- prosecution of the appeal by the assessee. This is amply clear from the s. 251(1)(a) and (b) and Explanation to Sec. 251(2) of the Act which requires the CIT(A) to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act."

12. We thus, in terms of our aforesaid observations are unable to persuade ourselves to concur with the manner in which the CIT(A) had summarily disposed of the appeal vide a non-speaking order. Accordingly, in all fairness, we restore the matter to the file of CIT(A) with a direction to re-decide the appeal vide a speaking order i.e by addressing the specific grounds based on which the impugned order of assessment has been assailed before him. The **Grounds of appeal Nos.1 to 3** are disposed of in terms of our aforesaid observations.

13. Resultantly, the appeal of the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the Open Court on 2<sup>nd</sup> June, 2025.

Sd/- (श्री मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (श्री रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER
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Hyderabad, dated 02.06.2025.

**TYNM/sps**

**आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Venkata Ratnam Tiriminchi, 1, Mahalakshmi Puram, Koduru – 524002, Andhra Pradesh.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward – 1, Nellore.
3.	The Principal Commissioner of Income Tax, Tirupati.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER