

आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

**श्री वी. दुर्गा राव, न्यायिक सदस्य, एवं श्री एस बालाकृष्णन, लेखा सदस्य केसमक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER**

**&
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER
(Through Hybrid Hearing)**

**आयकरअपीलसं./I.T.A.No.17, 18, 19, 20 & 21/Viz/2025
(निर्धारण वर्ष/ Assessment Year: 2013-14 to 2017-18)**

Surya Devara Chalamaiah, Nandigama. PAN: AIXPS8483J	v.	Joint Commissioner of Income Tax, Vijayawada.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Ms. S. Ravisha, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	02/06/2025
घोषणाकीतारीख/Date of Pronouncement	:	09/06/2025

आदेश /O R D E R

PER V. DURGA RAO, JM:

The captioned appeals are filed by the assessee against the respective orders of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi for the AYs 2013-14 to 2017-18. Since, all these appeals pertaining to one assessee and the core issue involved in these appeals is identical, all the appeals are clubbed, heard

together and disposed of in this consolidated order. Firstly, we shall take up ITA No. 17/Viz/2025, AY 2013-14 as a lead appeal.

ITA No. 17/Viz/2025

(AY 2013-14)

2. This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "Ld. CIT(A)") vide DIN & Order No. ITBA/NFAC/S/250/2024-25, dated 13/11/2024 arising out of the order passed U/s. 147 r.w.s 144 of the Income Tax Act, 1961 (in short "the Act") for the AY 2013-14.

3. Briefly stated the facts of the case are that the assessee is an individual, filed his return of income for the AY 2013-14 admitting a total income of Rs. 6,09,797/-. During the AY under consideration, the Ld. AO observed that the assessee had made transactions with respect to immovable property aggregating to Rs. 85,09,300/-. Accordingly, the Ld. AO by observing that the assessee has no source of income to make to such huge investment in immovable property and therefore, believing that the income chargeable to tax has escaped assessment within the meaning of section 147 of the Act, a notice U/s. 148 of the Act was issued on 31/03/2021 with the prior approval of the competent Authority and the same was duly served on the assessee. In compliance, the assessee did not file any return of income. Therefore, notice U/s.

142(1) of the Act was issued on 06/08/2021 and served on the assessee on the same day by email. Later on, the case was transferred to NaFAC, who observed that since the assessee fails to comply with the terms of a notice issued U/s. 142(1) of the Act, completed the assessment to the best of his judgment based on the material available before him as per the provisions of section 144(1) of the Act. While making the assessment, the Ld. AO observed that even though the assessee was asked to explain the nature and the source of the investments made in the immovable property, the assessee failed to offer any explanation to substantiate the investment during the year under consideration. Therefore, the Ld. AO concluded that that the amount of investment made in the immovable property represented from undisclosed sources. Thus, the Ld.AO treated the investment made in the immovable property amounting to Rs. 85,09,300/- as unexplained investment U/s. 69 of the Act and added the same to the total income of the assessee and invoked the provisions of section 115BBE of the Act while taxing the same. Thus, the total income of the assessee was determined at Rs. 91,19,097/- against the returned income of Rs. 6,09,797/- and passed the assessment order U/s. 144 r.w.s 147 r.w.s 144B of the Act, dated 07/03/2022. Against the order of the Ld. AO, the assessee carried the matter in appeal before the Ld. CIT(A) with a delay of 10 months.

4. On appeal, before the Ld. CIT(A), with respect to the belated filing of the appeal, it was the submission of the assessee that he was affected

by COVID Pandemic during the relevant period of time and therefore, it took time to consult the Counsel and submit the relevant documents as required by the Counsel for filing the appeal before the First Appellate Authority. However, the Ld. CIT(A) did not consider the submissions of the assessee and held that there is no sufficient cause which prevented the assessee from presenting the appeal within the 30 days stipulated U/s. 249 of the Act. Thus, the Ld. CIT(A) did not condone the delay in filing the appeal of the assessee and dismissed the assessee's appeal. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before us.

5. At the outset, the Ld. Authorized Representative [AR] submitted that the Ld. CIT(A)-NFAC ought to have considered the explanation of the assessee with respect to the condonation of delay in filing the appeal before the Ld. CIT(A)-NFAC as the assessee was prevented by a reasonable and sufficient cause i.e., ill health of the assessee on account of COVID Pandemic. The Ld. AR further drawn our attention to the affidavit filed by the assessee, dated 24/04/2025 wherein the assessee explained the reasons for belated filing the appeal before the Ld. CIT(A). The Ld. AR further submitted that the delay in filing the appeal is not on account of negligence or any deliberate act of the assessee. Ld. AR also submitted that without considering the explanation and the submissions of the assessee, the Ld. CIT(A)-

NAFC dismissed the appeal of the assessee by denying the condonation petition filed before him. The Ld. AR also submitted that the case laws relied on by the Ld. CIT(A)-NFAC are not applicable to the case of the assessee as the assessee is not negligent / deliberate but prevented by a reasonable and sufficient cause while filing the belated appeal before the Ld. CIT(A)-NFAC. The Ld. AR therefore pleaded that the matter may be remitted back to the file of the Ld. AO to decide the appeal *de novo* on merits.

6. On the other hand, the Ld. Departmental Representative [DR] heavily relied on the orders of the Ld. Revenue Authorities. The Ld. DR further submitted that before the Ld. CIT(A)-NFAC even though there is a delay, the onus is on the assessee to explain each day's delay with proper evidence. The Ld. DR also submitted that since the assessee has not discharged his onus, the Ld. CIT(A)-NFAC has rightly dismissed the appeal of the assessee. In toto, the Ld. DR supported the decision of the Ld. Revenue Authorities and pleaded to uphold the decision of the Ld. AO.

7. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is a fact that on being aggrieved by the addition

made by the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC with a delay of 10 months. It is also a fact that with respect to the belated filing of the appeal, the assessee has explained his reasons by stating that due to ill health, on account of COVID Pandemic, suffered by the assessee the appeal could not be filed within the stipulated time before the Ld. CIT(A)-NFAC. Further, before us the assessee has also produced an affidavit explaining the reasons that prevented the assessee in filing the appeal beyond the prescribed time limit. The relevant paras from the affidavit are culled out herein below:

3. I am filing the present appeal before the Hon'ble Tribunal against the order passed by the Ld. CIT(A). Vijayawada, dated on 07.02.2023, whereby the appeal was dismissed on 13.11.2024 solely on the ground that it was filed beyond the statutory limitation period.
4. The delay in filing the appeal before the Ld. CIT(A) was approximately 10 months and was due to bona fide reasons explained in this Affidavit.
5. The delay of 10 months in filing the appeal before the Ld. CIT(A) was unintentional and occurred due to genuine and unavoidable circumstances. During this period, I was severely affected by the COVID pandemic, which not only impacted my physical health severely but also left me extremely weak and unable to attend to personal or financial matters. I had taken my case file to an advocate for proper legal assistance, but unfortunately, he took nearly three months just to review the documents and assess the situation. Despite the urgency, there was significant delay from his end in providing any concrete guidance. Moreover, upon seeing the demands raised in the notices issued by the department, the advocate demanded an exorbitant fee running into several lakhs, which was completely unaffordable for me. This further delayed my ability to take timely action.
6. Furthermore, due to my limited knowledge and understanding of income tax procedures, I was unaware of the proper course of action and the timelines involved as they are faceless proceedings.
7. I am a layperson engaged in work as an LIC agent, with no regular tax/legal representation. I was unaware of the faceless and technical nature of assessment proceedings and filed the appeal late due to lack of understanding and genuine hardship. I was unaware that the appeal had to be filed electronically within a strict deadline. I approached the department for clarification multiple times and submitted letters physically nearly six times, after receiving the notice and submitted representations seeking the basis for the tax demand, but received no response in time.
8. The Ld. CIT(A) conducted an inquiry over a period of nearly 20 months from the date of filing the appeal until its dismissal, during which I submitted my replies and provided detailed explanations from my side. However, despite my efforts and the merits of the case, none of the genuine causes or circumstances were considered, and the appeal was dismissed solely on the ground of delay in filing. This has caused grave prejudice to me and has effectively denied me a fair opportunity to be heard on merits.
9. The assessment order dated 07.03.2022, as seen on page no. 3, does not contain any details or findings regarding any properties allegedly acquired illegally by me. The relevant portion is left blank, clearly indicating that there were no specific or substantiated allegations from the department's side concerning any undisclosed assets. This reflects the absence of any genuine or credible basis for the proceedings initiated against me. Despite the lack of merit and substance in the assessment, the Ld. CIT(A) chose to dismiss the appeal solely on the technical ground of delay in filing, without appreciating the facts or giving a fair opportunity to address the merits of the case. This action amounts to a miscarriage of justice and has caused serious prejudice to me.
10. The impugned appeal is thus delayed on account of the reasons mentioned hereinabove which constitute reasonable cause and the delay cannot be deemed to be wilful nor unreasonable. The delay deserves to be condoned and the appeal deserves to be admitted and heard in the interest of justice.

In our considered opinion, the Ld. CIT(A)-NFAC ought to have considered the explanation given by the assessee for belated filing of the appeal and ought to have disposed of the appeal on merits. Instead, the Ld. CIT(A)-NFAC dismissed the appeal in-limine. The Ld. AO has also passed the order to the best of his judgment by invoking the provisions of section 144(1) of the Act. Therefore, considering the facts and circumstances of the case and the reasons advanced by the Ld. AR as to why the assessee could not file the appeal within the stipulated time before the Ld. CIT(A)-NFAC, we have no hesitation to come to a conclusion that it is a fit case to condone the delay. Accordingly, we hereby condone the delay in filing the appeal before the Ld. CIT(A) and to set-aside the order passed by the Ld. CIT(A)-NFAC and thereby remit the matter to the file of the Ld. AO with a direction to decide the case de novo on merits. Further, we also hereby caution the assessee to cooperate before the Ld. AO in their proceedings, otherwise Ld. Revenue Authorities are at liberty to pass orders in accordance with law based on the material available on record. It is ordered accordingly.

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

ITA Nos.18, 19, 20 & 21/Viz/2025
(AYs: 2014-15 to 2017-18)

8. The core issue involved in these appeals relates to whether the Ld. CIT(A) is correct in dismissing the assessee's appeals without considering the reasons advanced by the assessee for filing the appeals beyond the prescribed time limited. This issue is identical to that of the issue adjudicated by us in the above paragraphs of this order while dealing with the assessee's appeal in ITA No. 17/Viz/2025, AY 2013-14. Therefore, our decision given therein (in ITA No. 17/Viz/2025) applies *mutatis mutandis* to the assessee's appeals in ITA Nos. 18 to 21/Viz/2025, AYs 2014-15 to 2017-18 also. Accordingly, the four appeals filed by the assessee (ITA Nos. 18 to 21/Viz/2025) are allowed for statistical purposes.

9. In the result, the assessee's appeals for the AY 2014-15 to 2017-18 are allowed for statistical purposes as indicated herein above.

10. Ex-consequenti, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 09th June, 2025.

Sd/-

(एसबालाकृष्णन)

(S. BALAKRISHNAN)

लेखासदस्य/ACCOUNTANT MEMBER

Dated : 09/06/2025

Okk, Sr.PS

Sd/-

(वी. दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : Suryadevara Chalamaiah, 1-129-1-a, Nandigama, Andhra Pradesh-521185.
2. राजस्व/ The Revenue : Joint Commissioner of Income Tax, Vijayawada, Andhra Pradesh-521185.
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल/ Guard file

//True Copy//

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam