

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "DIVISION" BENCH, VISA KHAPATNAM**

**श्री वी. दुर्गा राव, न्यायिक सदस्य, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER
&
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A. No.128/VIZ/2025
(निर्धारण वर्ष/ Assessment Year 2016-17)**

Burada Rama Mohana Rao Thumarada Village Balijapeta Mandal Vizianagaram – 535573 Andhra Pradesh [PAN: AQTPB6950D] (अपीलार्थी/ Appellant)	v.	Income Tax Officer – Ward -1 Income Tax Office Koppu Guarana Building Siddhartha Nagar Vizianagaram – 535002 Andhra Pradesh (प्रत्यर्थी/ Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	11.06.2025
घोषणा की तारीख/Date of Pronouncement	:	12.06.2025

आदेश / O R D E R

PER V. DURGA RAO, JM:

1. The captioned appeal is filed by the assessee against 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-

25/1071166186(1) dated 12.12.2024 for the A.Y.2016-17 arising out of order passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 29.01.2024.

2. Brief facts of the case are, assessee is an individual carrying on the business of "Liquor Business". During the assessment proceedings, assessee could not appear before the Ld. Assessing Officer [hereinafter in short "Ld. AO"]. Therefore, assessment order was passed under section 147 r.w.s. 144 r.w.s. 144B of the Act. Assessee carried the matter before the Ld. CIT(A) and there is a delay of 119 days in filing the appeal before the First Appellate Authority. Assessee submitted before the Ld. CIT(A) that the delay is due to beyond the circumstances of his control and requested that delay may be condoned and order may be passed on merits. However, the Ld. CIT(A) not condoned the delay on the ground that assessee has not appeared before the Ld. Ld. AO, therefore, it is not a fit case to condone delay and observed that no sufficient cause also shown by the assessee.

3. On being aggrieved, assessee is in appeal before us by raising the following grounds:

"1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) is not justified in dismissing the appeal in limine by refusing to condone the delay of 119 days in filing the appeal.

3. *The learned Commissioner of Income Tax (Appeals) ought to have given an opportunity to the appellant to explain the reasons for the delay.*

4. *Any other ground that may be urged at the time of appeal hearing.”*

4. At the outset, when the appeal was taken up for hearing, Ld. Counsel for the assessee (in short “Ld.AR”) submitted that one more opportunity should be granted to the assessee before the Ld. CIT(A) to substantiate his case and prayed that the delay before Ld. CIT(A) may be condoned.

5. On the other hand, Ld. Departmental Representative [hereinafter in short “Ld. DR”] supported the orders passed by the Ld. AO and Ld. CIT(A).

6. We have heard both the sides and perused the record and gone into the orders of the Revenue Authorities. We find that Ld. CIT(A) not condoned delay of 119 days only on the ground that assessee has not appeared before Ld. AO. We find that is not a correct reason to reject the delay condonation petition filed by the assessee. Therefore, considering the prayer and the submissions of the Ld.AR and the issues involved in the appeal, in the interest of justice, we direct the Ld. CIT(A) to condone the delay and pass the order on merits, thereby providing one more opportunity to the assessee of being heard. At the same breath, we also hereby caution the assessee to promptly co-operate before the Ld.Revenue Authorities in their proceedings failing which the Ld. Revenue

Authorities shall be at liberty to pass appropriate orders in accordance with law and merits based on the materials on the record. It is ordered accordingly.

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

Order pronounced in the open court on 12th June, 2025.

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Dated : 12/06/2025

Giridhar, Sr.PS

Sd/-

(वी. दुर्गा राव)Sd/-

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :-

1. निर्धारिती/ The Assessee : **Burada Rama Mohana Rao**
Thumarada Village
Balijapeta Mandal
Vizianagaram – 535573
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward -1**
Income Tax Office
Koppu Guarana Building
Siddhartha Nagar
Vizianagaram – 535002
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल/ Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam