

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad "B" 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.391/Hyd/2025  
(निर्धारण वर्ष/ Assessment Year: 2017-18)

Noushad Bhayani, R/o.Shivarampally, Rajendranagar, Hyderabad.  PAN : ASFPB1198R.	Vs.	The Income Tax Officer, Ward – 8(2), Hyderabad.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri P. Vinod, Advocate.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Sachin Kumar, Sr.A.R.
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.06.2025
घोषणा की तारीख/Date of Pronouncement	:	11.06.2025

**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 18.06.2024,

which in turn arises from the order passed by the Assessing Officer (for short "A.O.") u/s 144 of the Income Tax Act, 1961 (for short "the Act") dated 07.11.2019 for A.Y. 2017-18. The assessee has assailed the impugned order on the following grounds of appeal before us:

"1. On the facts and in the circumstances of the case, the order of the Id. CIT(A) is erroneous and unsustainable in law apart from being passed in violation of principles of natural justice. The Id. CIT(A) failed to appreciate that proper notices were not served on the appellant as required under section 282 of the Act r.w. rule 127 of the Rules, and therefore Appellant could not put forth his case.

2. Without prejudice, the Ld. CIT(A) erred in sustaining the addition of Rs. 1,32,44,506 made by the AO as unexplained money under section 69A of the Act.

(Tax Effect: Rs. 1,02,31,381)

3. Without prejudice, the authorities below ought to have estimated the income of the Appellant based on the previous year's NP ratio."

2. Succinctly stated, the A.O., observing that the assessee has not filed his return of income for A.Y. 2017-18 issued notice u/s 142(1) of the Act, dt.08.03.2018 calling upon him to file the same. However, the assessee failed to comply with the aforesaid notices and did not furnish the return of income for the year under consideration.

3. During the course of the assessment proceedings, the A.O. observed that based on the information that had surfaced gathered during the phase of online verification under “Operation Clean Money”, it was gathered that though the assessee during the demonetization period had made substantial cash deposits in his bank account, but, had not filed his return of income for the said year. The A.O. observed that the assessee had during the demonetization period made cash deposits aggregating to Rs.13,17,200/- in his bank accounts, viz. (i) HDFC Bank, Branch Gudimalkapur (A/c.No. 0001017720001239112): Rs.3,200/-; (ii). ICICI Bank, Branch Rajendranagar, (A/c.No.131605500062): Rs.10,89,550/-; and (iii). Axis Bank, Branch Mehdipatnam (A/c. No.9120200427537): Rs.2,24,500/-. As the assessee had failed to comply with the notices issued u/s 142(1) of the Act, the A.O. was constrained to proceed with and frame the assessment to the best of his judgment u/s 144 of the Act.

4. The A.O. issued notice u/s 133(6) of the Act, to the aforementioned banks and called for the bank statements of the assessee. In reply, the banks filed copies of bank account statements of the assessee, which revealed total credits of

Rs.1,32,44,526/- in the said bank accounts during the subject year as under :

Sl. No.	Name of bank & branch	Branch	Account no.	Cash deposit during Demonetization	Total credits (including cash deposited during demonetization period) from 01.04.2016 to 31.03.2017
1	HDFC Bank	Gudimalkapur	0001017720001239112	Rs. 3,200/-	Rs.3,200/-

2	ICICI Bank	Rajendranagar	131605500062	Rs.10,89,550/-	Rs.69,62,012/-
3	AXIS Bank	Mehdipatnam	912020042753704	Rs. 2,24,500/-	Rs.62,79,294/-

5. The A.O. in absence of any evidence forthcoming as regards the source of the aforesaid credits in the bank accounts of the assessee, held the same as having been sourced out of the unexplained money of the assessee u/s 69A of the Act.

6. The assessee, being aggrieved with the order of A.O., carried the matter in appeal before the CIT(A). As the assessee despite having been afforded more than sufficient opportunity, had failed to participate in the proceedings before the CIT(A), therefore, the latter was constrained to dispose of the appeal vide an *ex parte* order. The CIT(A), after deliberating the facts involved in the case before him, found no infirmity in the view taken by the A.O. and upheld the additions made by him u/s 69A of the Act, and dismissed the appeal.

7. The assessee, being aggrieved with the order of CIT(A), has carried the matter in appeal before us.

8. Shri P. Vinod, Advocate, the learned Authorized Representative (for short "LD.AR") for the assessee, at the threshold of hearing of the appeal, submitted that the present appeal involved a delay of 186 days. Elaborating on the reasons leading to the delay, Ld. AR submitted that though the assessee had in the memorandum of appeal i.e in "Form No.35" specifically mentioned that the notices/communications from the office of CIT(A) be forwarded/dropped in the email account of her counsel

i.e., akularaghu@yahoo.com but all the said notices/communications were dropped in the email account of "edlaharibabu@gmail.com". The Ld. AR submitted that as the CIT(A) had both forwarded the notices as well as the appellate order to a different e-mail address, therefore, the assessee had remained unaware of the fixation of the hearing of the appeals on the respective dates as well as passing of the impugned order. The Ld. AR submitted that it was only when the assessee's counsel was randomly checking up the pending appeal status of his clients on 03.03.2025, the said impugned order was noticed by him. The Ld. AR submitted that the assessee had, thereafter, involving no further loss of time filed the present appeal which by the time involved a delay of 186 days. Elaborating further on his contention, the Ld. AR submitted that as the delay in filing of the appeal had crept in for bonafide reason and not of any malafide conduct on the part of the assessee, therefore, the same, in all fairness, be condoned.

9. Per contra, the Ld. DR submitted that as the assessee had failed to come forth with any plausible explanation regarding the

delay involved in filing the appeal, the same does not merit to be condoned.

10. We have thoughtfully considered the contentions advanced by the learned Authorized Representatives of both parties qua the delay involved in filing of the present appeal.

11. Ostensibly, it is a matter of fact borne from the record that despite that the assessee mentioned at Sl.No.17 of “Form No.35” that the notices/communications be forwarded/ dropped in the email address akularaghuram@yahoo.com, but, we find on a perusal of the record that the same had been forwarded/dropped in the email account “edlaharibabu@gmial.com”. Considering the aforesaid facts, we find substance in the Ld. AR's claim that as the assessee was neither validly put to notice about the fixation of appeal on the various dates; nor provided with a copy of the CIT(A)'s order by forwarding/dropping the same in the email address provided by him in “Form No.35”, therefore, there were justifiable reasons explaining the delay involved in filing of the present appeal, which merits to be condoned. We, thus, in terms

of our aforesaid observations condone the delay involved in filing of the present appeal by the assessee before us.

12. Apropos the Ld. AR's claim that as the assessee had remained divested of participating in the appeal before the CIT(A), for the reason that the notices intimating the fixation of appeal except for on two occasions were forwarded/dropped in the email account other than that provided by the assessee in her Memorandum of Appeal i.e. "Form no.35", we find substance in the same. As observed by us hereinabove, as the assessee had not been validly put to notice (except for on two occasions) about the fixation of the appeal, it can therefore safely be gathered that he had remained divested of a sufficient opportunity of participating in the appellate proceedings before the first appellate authority and defend his case. Although the assessee ought to have remained vigilant about the fixation of the appeal, and having been validly put to notice on two occasions about the fixation of the same, should have followed up the matter, but we cannot also remain oblivion of the fact that on all the remaining occasions, no notice intimating the fixation of the appeal was validly served upon

her i.e. by dropping the same at the email address that was specifically provided by him in the Memorandum of Appeal.

13. Be that as it may, we are of the firm conviction that, in all fairness, the appeal requires to be restored to the file of CIT(A) with a direction to re-adjudicate the same after affording a reasonable opportunity of being heard to the assessee. The **Ground of Appeal No.1** is allowed for statistical purposes in terms of our aforesaid observations.

14. As we have set aside the matter to the file of CIT(A) for fresh adjudication, therefore, we refrain from advertent to and adjudicating the grounds based on which the merits of the addition made by the AO have been assailed before us, which, thus are left open. The **Ground of Appeal Nos.2 and 3** are disposed off in terms of our aforesaid observations.

15. **Ground of Appeal No.4**, being general in nature, is dismissed as not pressed.

16. Resultantly, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 11<sup>th</sup> June, 2025.

Sd/- <b>(श्री मधुसूदन सावडिया)</b> <b>(MADHUSUDAN SAWDIA)</b> <b>लेखा सदस्य/ACCOUNTANT MEMBER</b>	Sd/- <b>(श्री रवीश सूद)</b> <b>(RAVISH SOOD)</b> <b>न्यायिक सदस्य/JUDICIAL MEMBER</b>
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Hyderabad, dated 11.06.2025.  
**TYNN/sps**

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

1.	निर्धारिती/The Assessee	:	Noushad Bhayani, Flat No.304, 6-3-166/1, Laxminarayana Villa, Opp. Aramghar, Shivarampally, Rajendra Nagar, Telangana – 500052.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward 8(2), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Hyderabad