

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.213/Hyd/2025
(निर्धारण वर्ष/ Assessment Year: 2011-12)

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| Gattu Ravinder, R/o. Manikonda, Hyderabad. PAN : AETPG8691Q (अपीलार्थी/ Appellant) | Vs. | The Income Tax Officer, Ward – 8(1), Hyderabad. (प्रत्यर्थी/ Respondent) |
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| करदाता का प्रतिनिधित्व/ Assessee Represented by | : | Shri P. Vinod, Advocate. |
| राजस्व का प्रतिनिधित्व/ Department Represented by | : | Dr. Sachin Kumar, Sr.D.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 18.10.2024,

which in turn arises from the order passed by the Assessing Officer (for short "A.O.") u/s 144 r.w.s. 147 of the Income Tax Act, 1961 (for short "the Act") dated 27.06.2019 for A.Y. 2011-12. The assessee has assailed the impugned order on the following grounds of appeal before us :

"1. CIT (Appeals) erred in law and on facts while sustaining the addition of Rs. 7595940 for the assessment year 2011-12 as Long-Term Capital Gain without giving an opportunity of being heard and without reviewing the contents of the sale deed and nature of Land.

2. CIT (Appeals) erred in law and on facts of the while passing the order without reviewing the content of appeal as it was specifically narrated the usage of land is recreation and is located in buffer zone, which is not suitable for construction and request the department to obtain fair valuation through approved valuer.

3. The appellant was not given any chance by CIT (Appeals) via the email address and mobile number listed in Form 35, which is the appeal."

2. 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 filed by the assessee involves a delay of 57 days. Elaborating on the reasons leading to the delay, the Ld. AR submitted that the same had crept in for the reason that neither the notices intimating the fixation of the appeal nor the order passed by the CIT(A) was communicated/dropped in the email account that was provided by

the assessee in the memorandum of appeal i.e “Form No.35”-
“ravindergattu@gmail.com”. The Ld. AR to fortify his aforesaid
contention had taken us through the “Affidavit” filed by the
assessee deposing the said factual position. The Ld. AR submitted
that the assessee who had remained unaware both about the
notices intimating the fixation of the appeal and also the order
passed by the CIT(A) which were forwarded/dropped in the email
account that was created by his old tax consultant i.e.
“ravindergattu@yahoo.com”, had gathered about the same only
when he had engaged another tax consultant to reset the password
of his Income-tax e-filing account and had learned about the order
of CIT(A), dated 18.10.2024. The Ld. AR submitted that the
assessee immediately on learning about the dismissal of the
appeal by the CIT(A) vide his order dt.18.10.2024, had after
collating the required documents filed the appeal which by the
time involved a delay of 57 days. The Ld. AR submitted that as the
delay in filing of the appeal had occasioned for no deliberate fault
or malafide intention of the assessee, therefore, the same, in all
fairness be condoned.

3. Per contra, the Ld. DR objected to the seeking of the condonation of the delay involved in the filing of the present appeal by the assessee/appellant. The Ld. DR submitted that as there was no plausible explanation regarding the delay involved in filing of the appeal, therefore, the same was liable to be dismissed on the said count itself.

4. We have thoughtfully considered the reasons leading to the delay involved in filing the present appeal in the backdrop of the contentions advanced by the learned Authorized Representatives of both parties. Ostensibly, there is substance advanced by the assessee regarding the reasons leading to the delay of 57 days in filing the present appeal, which is supported by his affidavit. Considering the aforesaid facts, we have no hesitation in condoning the same. 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 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 31st 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 the appeal. We thus, in terms of our aforesaid observation, condone the delay of 57 days involved in filing of the present appeal by the assessee before us.

5. Succinctly stated, the A.O. based on information that the assessee had during the subject year sold certain lands, viz. (i) Land at Raidurg admeasuring 500 Sq. Yards in Sy.No.14 and 15 along with Sri C.V. Sandeep Reddy; and (ii). Land admeasuring 290 Sq. Yards in Sy.No.19 situated at Raidurg, Khalsa, Serilingampally Mandal, Ranga Reddy District for a sale consideration of Rs. 20,00,000/-, wherein the entire sale consideration was to be received by him with a condition that he was to provide approach to the land of Sri CV Sandeep Reddy in

Sy.No.12; coupled with the fact that the stamp duty value of the subject property was Rs.79,00,000/-, initiated proceedings u/s 147 of the Act. Notice u/s 148 of the Act, dated 28.03.2018 was issued by the A.O., which, however, was returned by the postal authorities with the remark "addressee left". Considering the aforesaid fact, the A.O. got the notice u/s 148 of the Act, dt.28.03.2018 served by affixture on 24.04.2018. However, the assessee failed to comply with the aforesaid notice and did not file his return of income. Also, as the notices u/s 142(1) of the Act issued by the A.O. were returned by the postal authorities with the remark "unclaimed", therefore, the A.O. got the same too served through affixture.

6. The A.O. considering that the assessee had neither filed his return of income nor furnished the requisite information, was constrained to frame the assessment vide his order u/s 144 r.w.s. 147 of the Act, dated 27.06.2019, wherein he determined the "Long Term Capital Gain" (LTCG) on the sale of the subject property at Rs.75,95,940/-.

7. 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 nine opportunities, 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 on the facts available on record found no infirmity in the view taken by the A.O. and upheld the addition of the LTCG of Rs.75,95,940/- and dismissed the appeal.

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

9. 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 assessee had suffered the dismissal of the appeal vide an *ex parte* order without being afforded any opportunity to put forth his case before the first appellate authority. Elaborating on his contention, the Ld. AR submitted that though the assessee in the Memorandum of Appeal i.e. "Form No.35" had specifically stated that all the notices/communications be sent to him at the email address, viz. ravindergattu@gmail.com

but on no occasion any such notice was dropped in the said email account. Carrying his contention further, the Ld. AR submitted that on all the occasions when the appeal was fixed for hearing, the notices intimating the same were forwarded not at the email account provided by the assessee i.e. "ravindergattu@gmail.com" in Form No.35, but were dropped in the email account, viz. ravindergattu@yahoo.com The Ld. AR to buttress the aforesaid factual position placed on record the copies of the notices issued by the CIT(A) office on the aforementioned respective dates.

10. We have thoughtfully considered the issue in hand in the backdrop of the orders of the authorities below and the material available on record.

11. Although, the assessee in the Memorandum of Appeal i.e. "Form No.35" had specifically mentioned that all the notices/communications be sent to him at the email address, viz. ravindergattu@gmail.com, but all the notices/letters intimating the fixation of the appeal are found to have been dropped in the email account, viz. ravindergattu@yahoo.com. Considering the aforesaid facts, we find substance in the Ld. AR's contention that

the assessee for no fault of his, had remained divested of a sufficient opportunity of participating in the proceedings before the CIT(A). We thus, in terms of the aforesaid facts, are of the firm conviction that the matter, in all fairness, requires to be restored to the file of the CIT(A) with a direction to re-adjudicate the same. Needless to say, the CIT(A) shall in the course of the set-aside proceedings afford a reasonable opportunity of being heard to the assessee.

12. Before parting, we may herein observe that as the assessee has in his Memorandum of Appeal i.e “Form 35” specifically mentioned that the notices/communications from the office of CIT(A) be forwarded to the email address, viz. “ravindergattu@gmail.com”, therefore, the notices intimating the fixation of appeal in the course of the set-aside proceedings be forwarded to him at the said e-mail address.

13. Resultantly, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 11th June, 2025.

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| 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 11.06.2025.

**TYNM/sps*

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

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|----|--|---|---|
| 1. | निर्धारिती/The Assessee | : | Gattu Ravinder, Plot No.50, 2 nd Floor, 6-MIG-50, Tanasha Nagar, Manikonda, Hyderabad. |
| 2. | राजस्व/ The Revenue | : | The Income Tax Officer, Ward 8(1), 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