

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस. बालकृष्णन, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI BALAKRISHNAN. S, ACCOUNTANT MEMBER,

आयकरअपीलसं./I.T.A.Nos.117 and 118/Viz/2025
(निर्धारण वर्ष/ Assessment Year : 2020-21)

The Salur Girijan Co-op Marketing Society Limited, Saluru, Vijayanagaram Dist. PAN : AABTT2783L	Vs.	The Income Tax Officer, Ward -1, Vijayanagaram.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N. Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	24.06.2025
घोषणा की तारीख/ Date of Pronouncement	:	26.06.2025

ORDER

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

The captioned appeals filed by the assessee society are directed against the respective orders passed by the Commissioner

of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 17.12.2024 and 12.12.2024, which in turn arises from the respective orders passed by the Assessing Officer under Section 144 and 270A of the Income Tax Act, 1961 (for short “the Act”), respectively, for A.Y. 2020-21. As common issues are involved in the captioned appeals, therefore, the same are taken up and disposed of by this consolidated order.

2. We shall first take up the appeal filed by the assessee for A.Y. 2020-21 in ITA No.117/Viz/2025 wherein the impugned assessment order has been assailed on the following grounds of appeal before us:

“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 without condoning the delay of 146 days in filing the appeal.

3. The learned Commissioner of Income Tax (Appeals) ought to have cancelled the penalty of Rs.40,44,494 levied by the assessing officer u/s 270A of the Act.”

3. Succinctly stated, the assessee society had e-filed its return of income for the Assessment Year 2020-21 on 15.10.2021, declaring an income of Rs. Nil. The said return of income was processed as such u/s 143(1) of the Act. Subsequently, the case of the assessee

was selected for “limited scrutiny” under CASS for verifying the “*deductions from total income under Chapter VIA of the Act*”.

4. As the assessee society, despite sufficient opportunities had failed to furnish the requisite details, 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. Accordingly, the A.O., in the absence of the requisite details declined the claim of the assessee society for deduction u/s 80P(2)(f) of the Act of Rs.64,91,555/- and assessed its income at the said amount.

5. Aggrieved, the assessee society carried the matter in appeal before the CIT(A). As the assessee society had delayed the filing of the appeal before the CIT(A) by 344 days, therefore, it had filed an application seeking condonation of the same. As the explanation of the assessee society regarding the reason leading to the delay in filing the appeal did not find favour with the CIT(A), therefore, he declined to exercise the discretion vested with him u/s 249(3) of the Act and dismissed the appeal as barred by limitation.

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

7. We have heard the learned Authorized Representatives of both parties and perused the material on record in the backdrop of the orders of the lower authorities.

8. Shri GVN Hari, Advocate, the learned Authorized Representative (for short "Ld.AR") for the assessee society, at the threshold of the hearing of the appeal, submitted that as the delay of 344 days involved in filing the appeal before the CIT(A) had crept in for bonafide reasons and not on account of any lackadaisical approach, therefore, the CIT(A) in all fairness ought to have condoned the same and disposed of the appeal on merits. Elaborating further on his contention, the Ld. AR submitted that the assessee society is a primary co-operative marketing society operating for the welfare of the scheduled tribes. It was submitted by him that as the income of the assessee society was exempt u/s 10(26B) of the Act, therefore it was not required to file its return of income. The Ld. AR submitted that the assessee society had wrongly filed its return of income, wherein inadvertently it had raised a claim for deduction u/s 80P(2)(f) of the Act. Carrying his contention further, the Ld. AR submitted that as the assessee society is operating in a remote area, i.e., Village Saluru, District:

Vijayanagaram, and its employees are tribals, who are not conversant with operating computers, therefore, the assessee society had remained unaware of the notices that were issued by the A.O during the course of the assessment proceedings. The Ld. AR submitted that as the assessee society had, for bonafide reasons, failed to participate in the assessment proceedings, therefore, it was visited with an *ex parte* order u/s 144 of the Act, wherein its claim for deduction u/s 80P(2)(f) of the Act of Rs. 64,91,555/- was declined by the A.O. Also, the assessee society under similar circumstances remaining unaware of the ongoing proceedings, was saddled with penalty vide the order passed by the A.O. u/s 270A of the Act, dated 24.03.2023. The Ld. AR submitted that it was only when the assessee society had received a letter dated 02.09.2023 by post from the ITO, Ward-1, Vijayanagaram, wherein it was called upon to deposit the outstanding demand based on the subject assessment order passed in its case, that it had learnt about the framing of the assessment and imposition of the penalty in its case u/s 270A of the Act. The Ld. AR submitted that the assessee society involving no further loss of time had thereafter taken necessary steps and

assailed the order passed by the A.O. u/s 144 r.w.s 144B of the Act, dated 06.09.2022, before the CIT(A) which, however, by that time involved a delay of 344 days. The Ld. AR submitted that as the delay involved in filing the appeal had occasioned for bona fide reasons, therefore, the CIT(A) had grossly erred in summarily brushing aside the explanation of the assessee society and declining to condone the same without giving any cogent reason.

9. Per contra, Dr. Aparna Villuri, the learned Senior Departmental Representative (for short "Ld.DR") relied upon the orders of the lower authorities. However, it was submitted by her that as the Tribunal in a case involving identical facts, had restored the matter to the file of the CIT(A) with a direction to condone the delay that was involved in the appeal filed before him and decide the appeal on merits, therefore, she had no objection if the present appeal on a similar footing is restored to the file of the CIT(A).

10. We have thoughtfully considered the contentions advanced by the Ld. authorized representatives of both the parties *qua* the solitary issue involved in the present appeal, i.e., justification of

the CIT(A) in declining to condone the delay involved in filing of the appeal before him.

11. As is discernible from the record, it is a matter of fact borne that the assessee society is a primary cooperative marketing society operating for the welfare of scheduled tribes in the area of Salur, District: Vijayanagaram. Although, we find that the assessee society was visited with an *ex parte* order u/s 144 r.w.s 144B of the Act, dated 06.09.2022, but there is a substance in the Ld. AR's claim that as it was not being assessed to tax and was operating from a remote village with tribals as its employees, who were not savvy with operating computers, therefore, it had remained oblivion of the ongoing assessment proceedings and thus, had failed to participate in the same. We are of the view that the claim of the assessee society that it had gathered about the framing of the assessment in its case only when a letter dated 02.09.2023 was received by post from the ITO, Ward-1, Vijayanagaram, calling upon it to deposit the outstanding demand based on the assessment framed in its case, could not have been summarily discarded by the CIT(A). Although, the assessee society ought to have remained vigilant regarding its ongoing assessment

proceedings and filing of the appeal before the CIT(A) within the time period prescribed under the statute, but considering the ground realities in its case, viz., (i) that the assessee society is a primary cooperative credit society operating for the welfare of the scheduled tribes; (ii) that the assessee society remained under a bona fide belief that its income was not chargeable to tax; (iii) that the assessee society was based in a remote area, i.e., Village Suluru, District: Vijayanagaram; and (iv) that its employees were the tribal people, who were not well conversant with operation of computers, therefore, it had remained unaware about the ongoing assessment proceedings and the framing of assessment in its case by the A.O., vide his *ex parte* order u/s 144 r.w.s 144B, dated 06.09.2022, we find substance in the explanation of the assessee society that the delay involved in filing the appeal before te CIT(A) had occasioned for bonafide reasons.

12. We have thoughtfully considered the reasons leading to the delay involved in filing of the present appeal and are of the firm conviction that the CIT(A), in all fairness, in the backdrop of the totality of the facts ought to have condoned the same and disposed of the appeal on merits. At this stage, it would be

relevant to point out that the Ld. DR, in the course of hearing of the appeal before us, had, in unequivocal terms, stated that she has no objection in case the matter is restored to the file of the CIT(A) with a direction to condone the delay and dispose of the appeal on merits.

13. Be that as it may, we are of the firm conviction that, in the totality of the facts involved in the case before us, the CIT(A) ought to have adopted a liberal approach and condoned the delay of 344 days involved in the appeal filed by the assessee society with him and disposed of the same on merits. 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.

14. Resultantly, we set aside the order passed by the CIT(A) with a direction to condone the delay involved in the appeal filed before him and dispose of the same, *qua* the merits based on which the impugned assessment order has been assailed by the assessee appellant before him.

15. In the result, the appeal of the assessee society is allowed for statistical purposes in terms of our aforesaid observations.

ITA 117/Hyd/2025

16. As the facts leading to the delay involved in filing the appeal by the assessee appellant before the CIT(A) in the present case, remain the same, except for the fact that the delay involved in the subject appeal before the CIT(A) was 146 days, which in turn was prompted by the same set of facts as were there in its case, i.e., ITA No. 118/Hyd/2025, therefore, our order therein passed shall apply *mutatis mutandis* for disposal of the present appeal. Accordingly, the order passed by the CIT(A) is on the same terms,

set aside with a direction to condone the delay of 146 days involved in the appeal filed by the assessee society before him and dispose of the same *qua* the merits based on which the impugned order passed by the A.O. u/s 270A of the Act, dated 24.03.2023 was assailed before him.

17. Resultantly, the appeal filed by the assessee society is allowed for statistical purposes in terms of our aforesaid observations.

18. To sum up, both the appeals of the assessee society are allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the Open Court on 26th June, 2025.

Sd/- (एस. बालकृष्णन) (S. BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER
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Hyderabad, dated 26.06.2025.

***TYNM/sps**

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

1.	निर्धारिती/The Assessee	:	The Salur Girijan Co-op Marketing Society Limited, C/o. Senior Manager, Girijan Co-op Marketing Society, Salur, Vijayanagaram Dist
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward –1, Vijayanagaram.
3.	The Principal Commissioner of Income Tax, Visakhapatnam.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम / DR, ITAT, Visakhapatnam.		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam