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, HON'BLE ACCOUNTANT MEMBER,

आयकरअपीलसं./**I.T.A.Nos.235 and 236/Viz/2025**
(निर्धारण वर्ष/ **Assessment Years : 2020-21 and 2021-22)**

Suresh Dharnia, R/o.Visakhapatnam PAN : AAWPD7103P	*Vs.*	The Income Tax Officer, Visakhapatnam
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	None.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.07.2025
घोषणा की तारीख/ Date of Pronouncement	:	18.07.2025

O R D E R

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

The captioned appeals filed by the assessee are directed against the respective orders passed by the Additional/JCIT (A)-3, Bengaluru for A.Y 2020-21 and A.Y 2021-22, which in turn arises

from the respective intimations issued by the Assessing Officer (for short "A.O.")/Central Processing Centre (for short "CPC"), Bengaluru under Section 143(1) of the Act, dated 15.12.2021 and 26.08.2022, respectively. 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. 2021–22 in ITA No. 235/VIZ/2025. The assessee has assailed the impugned order on the following grounds of appeal before us :

> "1. That the disallowance of amount made under Section 36(1)(va) is erroneous and bad in law. The learned AO and CIT(A) failed to appreciate that the contributions to EPF/ESI were deposited before the due date for filing the return of income under Section 139(1), and there was no intention to withhold or misuse such funds.
>
> 2. That the bona fide intent of the appellant and practical difficulties should have been considered. The disallowance of amount made does not align with the principles of equity and justice, as there has been no loss caused to the employees or to the revenue.
>
> 3. That the learned authorities have erred in not appreciating that Section 36(1)(va) should be harmoniously construed with Section 43B. The appellant humbly submits that the legislative intent behind Section 43B is to allow genuine claims where payments are made before filing the return of income.
>
> 4. That the learned authorities have failed to appreciate the nature and purpose of the amendment introduced by the Finance Act, 2021. The amendment clarifies the treatment of employees' contributions prospectively and does not apply to the appellant's case for the relevant assessment year.

5. That the disallowance results in undue hardship and a punitive impact. The appellant respectfully submits that such disallowance is disproportionate, especially when there is no malfeasance or misuse of the employees' contributions.

6. That the order passed by the CIT(A) is contrary to law and facts. The learned CIT(A) failed to apply judicial discretion and to provide relief in light of the practical and bona fide circumstances of the appellant.

7. That the reliance placed on the Supreme Court's decision in Checkmate Services (P) Ltd. vs. CIT is misplaced in the appellant's case. The facts and circumstances of the appellant differ materially, and strict adherence to statutory due dates creates undue hardship on the appellant, who has otherwise acted in good faith."

3. Succinctly stated, the assessee had filed his return of income for A.Y. 2021–22 on 27.10.2021, declaring an income of ₹19,26,380. The A.O./CPC, Bengaluru, vide his intimation under Section 143(1), dated 15.12.2021, disallowed under Section 36(1)(va) of the Act the assessee's claim for deduction of the delayed deposit of the employee's share of contribution od EPF/ESI amounting to Rs. 62,02,070/-.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(A), but without success on the issue in hand i.e., the sustainability of the disallowance of the assessee's claim for deduction of the delayed deposit of the employees share of contribution towards ESI/EPF of Rs.61,61,146/- (correct amount that was taken by the CIT(A) against the disallowance made by

the A.O. at Rs.62,02,070/-). For the sake of clarity, the observations of the CIT(A) are culled out as under:

10.1 Grounds of appeal of the present appeal is against the order u/s. 143(1) dated 31/12/2022 for A.Y 2020-21 whereby a disallowance of Rs 62,07,070/- inter *alia* disallowing the claim of assessee.

10.2 On careful consideration of the facts and circumstances of the case, the findings are as follows:

10.3 Disallowance u/s 36(1)(va):

10.3.1 Disallowance of Rs 62,07,070/- was made u/s.36(1)(va) for failure of the appellant to pay the employees' contribution to PF/ESI before the prescribed due dates under the relevant Acts by the AO CPC, Bengaluru.

10.3.2 However, it is the contention of the appellant in the grounds of appeal that the amount of Rs. 61,61,146/- was paid before filing the return of income and the actual amount is paid after the due date is Rs. 61,61,146/- instead of Rs. 62,07,070/-.

10.3.3 From the facts on record, it is evident that the disallowance of Rs 62,07,070/- has been made u/s.36(1)(va) of the Act on the basis of details reported in Tax Audit Report for the relevant period. It is verified from the 3CD Report that the appellant has remitted the amount of **Rs. 61,61,146/-** after the due date of payment which was disallowed by the AO CPC. The relevant extract of the form 3CD is produced here as:

20	b	Details of contributions received from employees for various funds as referred to in section 36(1)(va):				
		Nature of fund	Sum received from employees	Due date for payment	The actual amount paid	The actual date of payment to the concerned authorities
		Provident Fund	**305409**	**15/05/2019**	**301754**	**04/06/2019**
		Provident Fund	**300499**	**15/06/2019**	**301023**	**27/06/2019**
		Provident Fund	**397606**	**15/07/2019**	**397608**	**26/07/2019**
		Provident Fund	**442061**	**15/08/2019**	**442046**	**27/08/2019**
		Provident Fund	**588636**	**15/09/2019**	**588609**	**21/09/2019**
		Provident Fund	**611246**	**15/10/2019**	**610312**	**22/10/2019**
		Provident Fund	**631368**	**15/11/2019**	**631382**	**29/11/2019**
		Provident Fund	**624049**	**15/12/2019**	**624042**	**18/12/2019**
		Provident Fund	**603686**	**15/01/2020**	**597565**	**24/01/2020**
		Provident Fund	**711174**	**15/02/2020**	**711008**	**18/02/2020**
		Provident Fund	**707067**	**15/03/2020**	**647630**	**26/03/2020**
		Provident Fund	**714649**	**15/05/2020**	**714668**	**15/04/2020**
		Any Fund set up under the provisions of ESI Act,1948	**48869**	**21/05/2019**	**48957**	**28/05/2019**
		Any Fund set up under the provisions of ESI Act,1948	**49536**	**21/06/2019**	**49642**	**25/06/2019**
		Any Fund set up under the provisions of ESI Act,1948	**62734**	**21/07/2019**	**62832**	**23/07/2019**
		Any Fund set up under the provisions of ESI Act,1948	**30441**	**21/08/2019**	**30525**	**23/08/2019**
		Any Fund set up under the provisions of ESI Act,1948	**40743**	**21/09/2019**	**40865**	**18/09/2019**
		Any Fund set up under the provisions of ESI Act,1948	**42483**	**21/10/2019**	**42453**	**19/10/2019**
		Any Fund set up under the provisions of ESI Act,1948	**41254**	**21/11/2019**	**41399**	**21/11/2019**
		Any Fund set up under the provisions of ESI Act,1948	**40889**	**21/12/2019**	**41024**	**14/12/2019**
		Any Fund set up under the provisions of ESI Act,1948	**39221**	**21/01/2020**	**39346**	**10/01/2020**
		Any Fund set up under the provisions of ESI Act,1948	**46820**	**21/02/2020**	**45763**	**15/02/2020**
		Any Fund set up under the provisions of ESI Act,1948	**46765**	**21/03/2020**	**0**	
		Any Fund set up under the provisions of ESI Act,1948	**47417**	**21/05/2020**	**46771**	**11/04/2020**

10.3.4. Since these amounts were not disallowed in the Return of income filed by the appellant in ITR, the variance between Tax Audit Report and ITR has been duly flagged by the CPC in the computerized processing and disallowed u/s.143(1)(a)(iv) of the Act on the basis of facts furnished by the appellant for audit. Therefore, the adjustments carried out were well within the ambit of the provisions of section 143(1)(a)(iv) which reads as follows:

"Assessment. 143. *(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—*

(a) the total income or loss shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the return; [***]

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

profession under Income Tax Act and is allowed as a business deduction only if it has been paid within prescribed due date.

11.3. The employer's contribution, on the other hand, is a statutory obligation on the part of the employer to contribute from his own funds to the retirement corpus of the employees and is therefore in the nature of a direct business expenditure per se. Thus, by very nature, these two components, i.e., the employees' contribution and employer's contribution stand on totally different footings and hence covered under different provisions of the Income Tax Act, 1961.

11.4. Under the Income Tax Act, 1961, any sum received by the assessee from his employees as contribution to any provident fund or superannuation fund or any fund set up under the provisions of ESI Act or any other fund for the welfare of such employees is first treated as "Income" in the hands of the assessee-employer as per sub-clause (x) of Clause (24) of section 2, which reads as under.

"Definitions.

2. In this Act, unless the context otherwise requires, (24) "income" includes— (x) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;"

11.5. The employees' contribution which is so treated as "income" of the Employer u/s. 2(24)(x), is allowed as a "Deduction" under section 36 of the Income Tax Act, 1961 while computing the income under the head 'Profits and gains of business or profession' only if it has been deposited by the Employer within the due dates prescribed under the relevant Acts or Funds. Clause (va) of Sub-section 1 of Section 36 which provides for such deduction reads as under:

"Other deductions.

36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28— (va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

76[Explanation 1].—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or

notification issued there-under or under any standing order, award, contract of service or otherwise;"

11.6. Thus, the provisions regarding the deduction towards employees' contribution of PF/ESI in the hands of the employer u/s. 36 are very clear. When it is specifically covered under section 36(1)(va), it cannot be considered under any other provisions of the Act including section 37 or section 43B.

11.7. As far as the Employer's own contribution is concerned, though it is business expenditure, its allowability for the purposes of computing taxable income is subject to certain rigours of actual payment. Since the purpose of this statutory obligation cast on the employer is to provide for a corpus fund on retirement of the employees, mere creation of that liability and providing for it by way of book entries is not enough for its actual payment is essential and necessary. It is towards this objective that the employer's contribution is brought under the ambit of section 43B which allows certain deductions only on actual payment basis.

11.8. Section 43B specifies the list of deductions that are admissible under the Income Tax Act, 1961 only upon their actual payment. Employer's contribution to PF/ESI is covered in clause (b) of section 43B. According to it, if any sum towards employer's contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees is actually paid by the assessee on or before the due date for furnishing the return of the income under sub-section (1) of section 139, the assessee would be entitled to deduction under section 43B and such deduction would be admissible for the accounting year. Thus, even if the payment is deferred to the next accounting year, the employer can still claim the same as an eligible business deduction of the year if it was paid on or before the due date for filing of income u/s.139(1).

11.9. This provision u/s.43B does not cover employees' contribution referred to in clause (va) of sub-section (1) of section 36 of the Act, as evident from a bare reading of the sections.

"Certain deductions to be only on actual payment.

43B. *Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of— any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or*

(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, or shall be allowed (irrespective of the previous year in which

the liability to pay such sum was incurred by the assessee according to the method of accounting

regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him:

Provided that nothing contained in this section shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return."

11.10. This legal distinction between the two contributions was further reiterated by Circular No. 22/2015 dated 17th December 2015, wherein it was clarified that no disallowance shall be made for employer's share of contribution referred to in clause (b) of section 43B which is deposited before 'due date' of filling of return of Income u/s.139(1) of the Income Tax Act, 1961. It was also categorically clarified therein that this Circular does not apply to claim of deduction relating to employee's contribution to welfare funds which are governed by section 36(1)(va) of the IT Act.

11.11. Thus, it is amply clear that Section 36(1)(va) and section 43B(b) operate on totally different footings and have different parameters of due dates, i.e., employee's contribution is linked to payment before the due dates specified in the respective Acts or Funds and employer's contribution is linked to the payment before the prescribed due date for filing of return u/s.139(1) of Income Tax Act, 1961.

11.12. The result of any failure to pay within the prescribed dates also leads to different consequential results. In the case of employee's contribution, any failure to pay within the prescribed due date under the respective PF Act or Scheme will result in negating employer's claim for deduction forever u/s.36(1)(va). On the other hand, delay in payment of employer's contribution is visited with deferment of deduction on payment basis u/s.43B and is therefore not lost totally. This legal distinction between employees' contribution and employer's contribution under the Act was duly recognized by the Courts also.

11.13. It is in this backdrop that vide Finance Act 2021, an explanation 5 has been added to the section 36(1)(va), which clarifies that provision of section 43B does not apply, and deemed to never have been applied for the purpose of determining the 'due date'. The said explanation is reproduced as under:

'Explanation 2.–For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the

purposes of determining the "due date" under this clause;'.

11.14. Similarly in section 43B of the Income-tax Act, after Explanation 4, the following Explanation shall be inserted, namely:—

"Explanation 5.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 applies.".

11.15. The rational of the amendment was explained by the Memorandum to the Finance Bill, 2021 dated 01.02.2021 as below:

"There is a distinction between employer contribution and employee's contribution towards welfare fund. It may be noted that employee's contribution towards welfare funds is a mechanism to ensure the compliance by the employers of the labour welfare laws. Hence, it needs to be stressed that the employer's contribution towards welfare funds such as ESI and PF needs to be clearly distinguished from the employee's contribution towards welfare funds. Employee's contribution is employee own money and the employer deposits this contribution on behalf of the employee in fiduciary capacity. ***By late deposit of employee contribution, the employers get unjustly enriched by keeping the money belonging to the employees.*** *Clause (va) of sub section (1) of Section 36 of the Act was inserted to the Act vide Finance Act 1987 as a measure of penalizing employers who mis-utilize employee's contributions."*

11.16 From the above amendment, it is evident that the law is, and has always been very clear i.e., employees' contribution to specified fund will not be allowed as deduction u/s.36(1)(va) if there is delay in deposit even by a single day as per the due dates mentioned in the respective legislation. It is also clear that the amendments are only declaratory/clarificatory in nature and are therefore applicable with retrospective effect by necessary intendment of deeming nature expressly stated therein.

11.17. At this juncture, it is pertinent to mention that Hon'ble Supreme Court of India, vide its recent judgement in the case of **Checkmate Services Pvt. Ltd Vs. Commissioner of Income-Tax-1,(Civil Appeal no. 2833 of 2016)** dated 12.10.2022, has upheld the aforesaid view. The relevant part of the aforementioned decision is reproduced as under:-

"*53. The distinction between an employer's contribution which is its primary liability under law - in terms of Section 36(1)(iv), and its liability to deposit amounts received by it or deducted by it (Section 36(1)(va)) is, thus crucial. The former forms part of the*

employers' income, and the later retains its character as an income (albeit deemed), by virtue of Section 2(24)(x) – unless the conditions spelt by Explanation to Section 36(1)(va) are satisfied i.e., depositing such amount received or deducted from the employee on or before the due date. In other words, there is a marked distinction between the nature and character of the two amounts - the employer's liability is to be paid out of its income whereas the second is deemed an income, by definition, since it is the deduction from the employees' income and held in trust by the employer. This marked distinction has to be borne while interpreting the obligation of every assessee under Section43B.

54. In the opinion of this Court, the reasoning in the impugned judgment that the non-obstante clause would not in any manner dilute or override the employer's obligation to deposit the amounts retained by it or deducted by it from the employee's income, unless the condition that it is deposited on or before the due date, is correct and justified. The non-obstante clause has to be understood in the context of the entire provision of Section 43B which is to ensure timely payment before the returns are filed, of certain liabilities which are to be borne by the assessee in the form of tax, interest payment and other statutory liability. In the case of these liabilities, what constitutes the due date is defined by the statute. Nevertheless, the assessees are given some leewayin that as long as deposits are made beyond the due date, but before the date of filing the return, the deduction is allowed. That, however, cannot apply in the case of amounts which are held in trust, as it is in the case of employees' contributions- which are deducted from their income. They are not part of the assessee employer's income, nor are they heads of deduction per se in the form of statutory pay out. They are others' income, monies, only deemed to be income, with the object of ensuring that they are paid within the due date specified in the particular law. They have to be deposited in terms of such welfare enactments. It is upon deposit, in terms of those enactments and on or before the due dates mandated by such concerned law, that the amount which is otherwise retained, and deemed an income, is treated as a deduction. Thus, it is an essential condition for the deduction that such amounts are deposited on or before the due date. If such interpretation were to be adopted, the non obstante clause under Section 43B or anything contained in that provision would not absolve the assessee from its liability to deposit the employee's contribution on or before the due date as a condition for deduction.
55. In the light of the above reasoning, this court is of the opinion that there is no infirmity in the approach of the impugned judgment. The decisions of the other High Courts, holding to the contrary, do not lay down the correct law. For these reasons, this court does not find any reason to interfere with the impugned judgment. The appeals are accordingly dismissed."

11.18. From the above judicial decision of the Hon'ble Apex Court of the country and

also the unambiguous wording of the amended provisions of section 36(1) and 43B, it is clear that the employee's contribution can be allowed as a deduction only if it had been paid within the prescribed due dates under the relevant welfare funds and this position of law is and has always been the case and the clarifications brought about by the amendment clearly apply retrospectively.

The addition of Rs. 62,07,070/- made by the A.O, CPC in intimation order u/s 143(1) is restricted to **Rs. 61,61,146/-** which is the correct amount in respect of belated payment of employee's contribution towards EPF and ESI is **confirmed.** The appeal filed on this ground is **dismissed**.

12. Further the appellant has appeal for the non-granting of TDS credit of Rs.2,41,436/- claimed in the ITR, the appellant has stated that TDS credit of Rs. 11,58,338/- was claimed as per 26AS but the CPC has given the TDS credit at Rs. 9,16,902. In this regard, your appellant submits that at the time of fling return, TAN No. of a party namely **Power Grid Corporation of India Limited** was wrongly entered as **BLRP01973G** instead of **TAN No. HYDN00317C** against the TDS credit amount of **Rs. 2,41,436/-**. As result of this, CPC has not given the credit of Rs.2,41,436 even though the same is appearing in the Form 26AS. The AO is directed to verify the claim of the appellant, the AO should give TDS credit to the appellant if the relevant income is offered in ITR respect to the TDS claimed. The AO can give hearing opportunity to the appellant before passing any adverse order. The appeal filed on this ground is partly allowed for statistical purposes.

13. In the result, the appeal is **Partly allowed.**

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

6. As the assessee, despite having been put to notice, had failed to participate in the proceedings before us, therefore, we are constrained to proceed with and dispose of the appeal after

hearing the Respondent/Revenue and perusing the orders of the lower authorities.

7. At the threshold of hearing of the appeal, we find that the same involves a delay of 354 days. On a perusal of the record, we find that the assessee has filed an application seeking condonation of the aforesaid delay, vide his letter dated 10.05.2025, supported with an affidavit (undated).

8. On a perusal of the condonation application/affidavit, we find that the delay in filing of the present appeal by the assessee is stated to have crept in because the tax consultant, who was engaged by him for presenting the matter before the CIT(A), had not only failed to respond to the notices issued by the latter's office, but also had not intimated the assessee about the dismissal of his appeal by the CIT(A), vide order dated 13.02.2024. The assessee had claimed that he had gathered about the CIT(A)'s order only when he had contacted a new tax consultant for filing his return of income for the succeeding year i.e., A.Y. 2025–26. It is stated by him that the new tax consultant had informed him that his appeal had been dismissed by the CIT(A) and further advised him to file an appeal before the

Tribunal. The assessee states that he had thereafter filed the present appeal before the Tribunal, but the same by the time involved a delay of 354 days. The assessee, based on the aforesaid facts, had submitted that as the delay in filing of the appeal before the Tribunal was unintentional and due to unavoidable circumstances beyond his control, therefore, the same in all fairness, be condoned.

9. Per contra, Dr. Aparna Villuri, the learned Senior Departmental Representative (for short "Ld. DR") objected to the seeking of condonation of the delay by the assessee. The Ld. DR submitted that as the assessee except for putting the entire blame for the inordinate delay of 354 days involved in filing the present appeal on his earlier counsel, had failed to lead any evidence which could irrefutably support the same, therefore, the said delay, in the absence of any justifiable reason, does not merit to be condoned.

10. We have thoughtfully considered the contention of the Ld. DR in the backdrop of the material available on record, i.e., the application for condonation and the affidavit filed by the assessee in support thereof.

11. We find substance in the Ld. DR's claim that the assessee, based on his unsubstantiated claim, had tried to justify the inordinate delay of 354 days involved in the filing of the present appeal before us. The assessee had placed the entire blame for the delay in filing of the appeal on his earlier tax consultant, but had very casually avoided from even mentioning the details of the said earlier counsel. Also, the assessee had failed to place on record as to on which date, he had gathered knowledge about the dismissal of the appeal by the CIT(A). Apart from that, we are unable to comprehend that though the CIT(A)'s proceedings were spread over a period of one and a half years i.e., from 31.12.2022 (the date of institution of the appeal) up to 13.02.2024 (the date of the learned CIT(A)'s order), but the assessee had gathered about the dismissal of his appeal only at the stage of filing his return for A.Y. 2025–26, i.e., somewhere around in the month of July, 2025 onwards.

12. We are unable to fathom that now when the assessee/his tax consultant, subsequent to 13.02.2024, would have accessed the income tax portal account for filing of the return of income for A.Y. 2024–25, i.e. in July, 2024 onwards, then how the fact of

dismissal of his appeal by the CIT(A), vide order dated 13.02.2024, had not come to his notice?

13. We are of the firm conviction that the assessee in the present case had come up with a concocted story in his attempt to explain the inordinate delay of 354 days involved in the present appeal filed by him. Also, the casual conduct of the assessee can also be gathered from the fact that he has filed/placed on record an undated affidavit, which is not even found to be notarized.

14. We, thus, considering the totality of the facts involved in the present appeal before us, are of the firm conviction that as the assessee, who despite having been put to notice on three occasions i.e., 06.12.2023, 09.01.2023, and 02.02.2024 failed to participate in the proceedings before the CIT(A), had based on his lackadaisical approach, failed to file the present appeal within the prescribed period, therefore, do not find any substance in his explanation regarding the reasons leading to the delay in filing of the same and thus, decline to condone the same.

15. Resultantly, the appeal filed by the assessee, being barred by limitation, is dismissed on the said count itself.

ITA No.236/Viz/2025 for A.Y. 2021-22

16. As the facts involved in the present appeal remain the same, except for the fact that the delay in filing of the appeal involved 384 days, which the assessee, based on the same reason as given by him in ITA No. 235/Viz/2025 for A.Y. 2020–21, has sought to explain, therefore, our order passed while disposing of the aforesaid appeal for A.Y. 2020–21 shall apply *mutatis mutandis* for the purpose of disposing of the present appeal.

17. Resultantly, the appeal filed by the assessee for A.Y. 2021-22 in ITA No. 236/Viz/2025 is, on the same terms, dismissed.

18. To sum up, both the appeals filed by the assessee are dismissed

Order pronounced in the Open Court on 18th July, 2025.

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

Hyderabad, dated 18.07.2025.
***#TYNM/sps**

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

1.	निर्धारिती/The Assessee	:	Suresh Dharnia, Door No.6-14/1, Shivalayam Street, Vepagunta Ward – 69, Visakhapatnam (Urban) - 530047
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Visakhapatnam
3.	The Principal Commissioner of Income Tax, Visakhapatnam.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT, Visakhapatnam		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam