

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

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस बालाकृष्णन, माननीय लेखा सदस्य

**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI S BALAKRISHNAN HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No.472/Viz/2024
(निर्धारण वर्ष/ Assessment Year: 2017-18)

Barigala Saroja, Guntur. PAN: BZCPB1764J	VS.	Income Tax Officer, Ward-2(1), Guntur.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताका प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्वका प्रतिनिधित्व/ Department Represented by	:	Dr. Satyasai Rath, CIT-DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10/07/2025
घोषणा की तारीख/ Date of Pronouncement	:	18/07/2025

ORDER

PER S. BALAKRISHNAN, AM:

This appeal filed by the assessee is against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (in short "Ld. CIT(A)-NFAC") vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1067090203(1), dated 29/07/2024 arising out of the order passed U/s. 144 of the Income Tax Act, 1961 (in short "the Act"), dated 31/10/2019 for the AY 2017-18.

2. It is noticed from the record that there is a delay of 52 days in filing the appeal before the Tribunal. In respect of the belated filing of the appeal, the assessee filed a petition seeking condonation of delay along with an affidavit dated 24/01/2025 and explained the reasons for such delay. For the sake of immediate reference, the contents of the said affidavit are extracted herein below:

“1.....

2. *The appellant suffered from severe abdominal pain and high fever due to infection and inflammation of uterus and was under treatment and complete bed rest as advised by the Doctor during the period from 18/09/2024 to 11/11/2024 (Copy of Medical Certificate is enclosed herewith). Therefore, the appellant was not in a position to attend to any other affairs during this period. As such, the appeal could not be filed. As soon as the condition improved, the appellant took necessary steps and filed the appeal on 18/11/2024.*

3. *Thus, the delay in filing the appeal was due to the reasons explained above which were beyond the control of the appellant. The delay was neither intentional nor deliberate. Therefore, the appellant prays the Hon'ble ITAT to kindly condone the said delay of 52 days in filing the appeal and to pass appropriate orders in the interest of rendering substantial justice.”*

3. On a perusal of the reasons advanced by the assessee, we find that due to ill health of the assessee, the appeal of the assessee was filed beyond the prescribed time limit i.e., with a delay of 52 days. Therefore, we find that there is a reasonable and sufficient cause that prevented the assessee in filing the appeal within the prescribed time limit. Hence, we hereby condone the delay of 52 days in filing the appeal before the Tribunal and proceed to adjudicate the case on merits.

4. Briefly stated the facts of the case are that the assessee an individual. On verification of the AIMS Module of ITBA, the Ld. AO observed that the assessee made substantial cash deposits during the demonetization period. Subsequently, a notice U/s. 142(1) of the Act was issued on 23/11/2017 calling for the return of income pertaining to AY 2017-18 and served on the same date. However, the Ld. AO observed that the assessee filed an invalid return in ITR-3 beyond the due date prescribed U/s. 139(4) of the Act and treated the same as non-est in the eyes of law. Thereafter, notice U/s. 142(1) of the Act was issued on 29/04/2019 calling for information viz., copy of statement of accounts, source of cash deposits however, the assessee did not respond. Subsequently, the Ld. AO issued notice U/s. 133(6) of the Act was issued to the concerned bank authorities and obtained the assessee's bank account statements. On verification of the bank account statements, the Ld. AO observed that the assessee made cash deposits aggregating to Rs. 3,66,86,930/- out of which cash deposit of Rs. 46,92,270/- was made during demonetization period during the AY 2017-18. Thereafter, the Ld. AO issued a show-cause notice dated 05/08/2019 to the assessee along with notice U/s. 142(1) of the Act and the assessee was requested to furnish the information as called for and the Ld. AO also proposed to complete the assessment U/s. 142(1) r.w.s 144(1)(b) of the Act by treating the entire cash deposits of

Rs. 3,66,86,930/- as unexplained income U/s. 69A of the Act. Considering the assessee's no response to the show cause notice dated 05/08/2019, the Ld. AO issued another notice U/s. 142(1), dated 19/09/2019 and the same was served on the assessee on 24/09/2019. However, since there was no response from the assessee with respect to the notice U/s. 142(1) and show cause notice issued, the Ld. AO proceeded to complete the assessment as 'best judgment assessment U/s. 142(1) r.w.s 144(1)(b) of the Act'. Accordingly, the Ld. AO completed the assessment by treating the total cash deposits made in bank accounts of the assessee during the year to the tune of Rs. 3,66,86,930/- as unexplained money U/s. 69A of the Act and made the addition vide the assessment order dated 31/10/2019 passed U/s. 144 of the Act. Aggrieved by the order of the Ld. AO, the assessee carried the matter in appeal before the Ld. CIT(A) with a delay of 402 days.

5. Before the Ld. CIT(A)-NFAC, the assessee explained the reasons for belated filing of the appeal i.e., due to ill health. However, the Ld. CIT(A)-NFAC did not consider the reasons advanced by the assessee and observed that since the assessee has failed to substantiate the delay by giving cogent reasons supported by evidence, the appeal of the assessee is barred by limitation and not maintainable as per the provisions of section 249(2) r.w.s 249(3) of the Act and hence

dismissed the appeal in limine. Aggrieved by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(A) is not justified in refusing to condone the delay of 402 days in filing the appeal and dismissing the appeal in-limine.*
3. *The Ld. CIT(A) ought to have held that the AO is not justified in making addition of Rs. 3,66,86,930/- U/s. 69A of the Act towards alleged unexplained cash deposits in the bank accounts of the appellant.*
4. *Any other grounds may be urged at the time of hearing.”*

6. At the outset, the Learned Authorized Representative (in short “Ld. AR”) submitted that there is a delay of 402 days in filing the appeal before the Ld. CIT(A)-NFAC and the said delay was occurred due to ill health of the assessee. However, the Ld. CIT(A)-NFAC did not consider the explanation given by the assessee and dismissed the appeal in limine. Therefore, the Ld. AR pleaded that the delay of 402 days in filing the assessee’s appeal before the Ld. CIT(A)-NFAC may be condoned and the matter may be remitted back to the file of the Ld. AO for fresh adjudication of the case.

7. On the other hand, the Ld. Departmental Representative (in short “Ld. DR”) objected to the contention of the assessee and relied on the decision of the Hon’ble Supreme Court in the case of Mani Mandir Sewa Nyas Samiti Ramghat Ayodhya vs. CIT [2020] 274

Taxman 277 (SC). However, the Ld. DR pleaded that if the Tribunal decides to condone the delay, the matter may be remitted back to the file of the Ld. CIT(A)-NFAC instead of Ld. AO.

8. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is a fact that on being aggrieved by the addition made by the Ld. AO in the assessment order passed U/s. 144 of the Act, the assessee preferred an appeal before the Ld. CIT(A)-NFAC with a delay of 402 days. It is also a fact that with respect to the belated filing of the appeal, the assessee has explained her reasons by stating that due to ill health suffered by the assessee the appeal could not be filed within the stipulated time before the Ld. CIT(A)-NFAC. The Ld. CIT(A)-NFAC dismissed the appeal in-limine without considering the explanations offered by the assessee for the belated filing of the appeal. Considering the facts and circumstances of the case and the reasons advanced by the Ld. AR as to why the assessee could not file the appeal within the stipulated time before the Ld. CIT(A)-NFAC, and also the high-pitched addition made by the Ld. AO we consider it deem fit to condone the delay occurred before the Ld. CIT(A)-NFAC. Accordingly, we hereby condone the delay of 402 days in filing the appeal

before the Ld. CIT(A)-NFAC and remit the matter back to the file of the Ld. CIT(A) with a direction to adjudicate the case on merits afresh in accordance with law after affording a reasonable opportunity of being heard to the assessee. Needless to mention that the assessee should cooperate during the proceedings before the Ld. CIT(A)-NFAC, otherwise, the Ld. CIT(A)-NFAC is at liberty to decide the case in accordance with law and on merits, based on the material available before him.

9. In the result, appeal filed by the assessee is allowed for statistical purposes as indicated herein above.

Order pronounced in the open court on 18th July, 2025.

Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER	Sd/- (एस बालाकृष्णन) (S BALAKRISHNAN) लेखासदस्य/ACCOUNTANT MEMBER
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Visakhapatnam, dated 18.07.2025.
OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Barigala Saroja, D.No. 1-604/302, Sarada Residency, Kothapet, Mangalagiri, Guntur, Andhra Pradesh-522503.
2.	राजस्व/ The Revenue	:	Income Tax Officer, Ward-2(1), O/o. ITO, Lakshmipuram Main Road, Guntur, Andhra Pradesh-522006.
3.	The Principal Commissioner of Income Tax,		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, हैदराबाद. DR, ITAT, Visakhapatnam/		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam.