

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

(HYBRID HEARING)

**श्री रवीश सूद, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.174/VIZ/2024
(निर्धारण वर्ष/ Assessment Year: 2013-14)**

Bala Venkata Shiva Satya Naga Raju Mantena 2-272/3, Malavani Thippa Kaluvapudi – 534236 Kalla Mandalam West Godavari District Andhra Pradesh [PAN:AOCPM1009D]	Vs.	Income Tax Officer – Ward – 1 Bhimavaram West Godavari District Andhra Pradesh
(अपीलधर्ती/Appellant)		(प्रत्यर्ती/Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri K.Siva Ram Kumar, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Satyasai Rath, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	21.07.2025
घोषणा की तारीख/Date of Pronouncement	:	25.07.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No.

ITBA/NFAC/S/250/2023-24/1060125838(1) dated 25.01.2024 for the A.Y.2013-14 arising out of the order passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 26.03.2022.

2. At the outset, it is noticed from the appeal record that there is a delay of 28 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. AR drew our attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under: -

"1. The petitioner is the Appellant in the appeal mentioned above. The Order in dispute, ie. the Appellate Order of the leamed CIT(Appeals), NAC, Delhi was passed and also served on your petitioner-appellant on 25.1.2024.

2. The petitioner-appellant is thus obliged to file an appeal against the said order before the Hon'ble Tribunal by 25.3.2024. But, the Appeal Memorandum is being presented in the office of the Hon'ble Tribunal on 22.4.2024, ie, with a delay of 28 days (by the time the Appeal Memorandum reaches the Hon'ble Tribunal's Office, the delay would be 28 days)

3. The appellant's permanent address is the Malavani Thippa Village (PIN:534236, West Godavari Dist., A.P.) address mentioned first above. His Aadhar card also shows the same address. He has been filing the ITRs from AY:2013-14 with the same address only. But the PAN Card erroneously showed the address as Dilsukh Nagar, Hyderabad, Telangana State and the Sec.148 Notice was generated from the office of the Income tax Officer, Ward-9(1), Hyderabad. The petitioner responded to the said Sec. 148 Notice but mentioned his address in the ITR for AY: 2013-14 as Malavani Thippa Village and not Hyderabad, as wrongly mentioned in the Notice.

4. As per the correct address of the appellant, the ITAT jurisdiction shall be of the Hon'ble ITAT, Visakhapatnam. But if one checks the Income tax Portal, the appellant's address is shown as Hyderabad and the jurisdiction falls in Telangana State, in which case, the second appeal lies before the Hon'ble ITAT, Hyderabad. In order to set right the mistake in address caused by the Income tax Department, the appellant -petitioner

raised grievance for correction of the address to enable filing of the present appeal before this Hon'ble Tribunal, which is the appropriate forum and there was a delay in the resolution of the grievance put in by the appellant-petitioner.

5. *The present appeal is being filed only after the resolution of the appellant-petitioner's grievance and the display of jurisdiction on the Income tax Portal as ITO, Ward-1, Bhimavaram, AP. This genuine reason caused the delay. In presentation of the appeal. The appellant had to approach the learned JAOs of the two States and get the issue resolved.*

6. *The copy of the ITR-V for AY:2013-14 showing the appellant's address as Malavani Thippa (PIN: 534236), copy of Sec. 148 Notice showing Hyderabad address erroneously, the copy of the grievance resolution and the screenshot now showing the jurisdictional AO as ITO, Ward-1, Bhimavaram, 534236 are attached hereto as supporting evidence for the submissions made herein.*

7. *It is humbly and respectfully submitted that the Appeal couldn't be filed in time, view of the above serious difficulty. Thus, there is an unintended delay of 28 (Twenty eight) days only in filing the Appeal (the Appeal before the Hon'ble Tribunal was due by 15.3.2024).*

8. *It is prayed that the Hon'ble Tribunal be pleased to condone the delay and pray that the Appeal be admitted and taken on record, as otherwise great hardship and insufferable injustice will be caused to the petitioner herein. The inconvenience caused in this regard to the Honourable Tribunal is sincerely regretted. The petitioner also hereby undertakes to ensure proper representation before the Honourable Tribunal in the above appeal on its admission and an opportunity of hearing is granted thereafter.”*

3. On perusal of the contents of the affidavit filed by the assessee as well as the submission of the Ld. AR, we find that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time limit with a delay of 28 days. Therefore, we hereby condone the delay of 28 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

4. Brief facts of the case are that, assessee has not filed his return of income under section 139(1) of the Act and based on the information available with the Actionable Information Monitoring System (AIIMS) it was noticed that assessee has deposited cash amounting to Rs.5,85,90,990/-. Thereafter the case was reopened under section 147 of the Act after obtaining necessary approval from the competent authorities. Accordingly, notice under section 148 of the Act was issued on 31.03.2021. Subsequently, notice under section 142(1) of the Act was issued electronically on 16.11.2021, 11.01.2022 and 17.02.2022 requiring the assessee to furnish the detail with reference to the reasons recorded for the reopening. Assessee did not comply with the notices. Thereafter Ld. Assessing Officer [hereinafter in short "Ld. AO"] proceeded to frame the assessment under section 144 of the Act after taking into account all the material available before him and added an amount of Rs.4,65,30,990/- to the total income of the assessee.

5. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before Ld. CIT(A). Ld. CIT(A) after considering the submissions made by the assessee dismissed the appeal of the assessee.

6. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising following grounds of appeal: -

"1. In the facts and circumstances of case, learned CIT (Appeals) erred in not considering the detailed submissions made before him in

passing the orders u/S.250; the written submissions in appeal were uploaded by the appellant on 24.1.24 with 12 attachments including a copy of the petition for admission of additional evidence and the additional evidences (already filed along with Form.35) and the appeal was adjudicated on the immediately following day, i.e., 25.1.24 by dismissing the appeal without adverting to the elaborate submissions.

2. *In the facts and circumstances of case, learned CIT (Appeals) ought to have considered the legal ground raised before him that the Notice u/s.148 was time barred and hence the subsequent proceedings are bad in law.*

3. *In the facts and circumstances of case, learned CIT (Appeals) ought to have considered the Tax Audit Report, ITR filed, Bank Account copies and other material papers in support of the appeal placed before him by the appellant while adjudicating upon the appeal. This Ground is without prejudice to the Ground of lack of jurisdiction.*

4. *The Notice issued under Sec.148 was not in accordance with the faceless assessment scheme and issuance in a non-faceless manner is bad in law. This Ground is without prejudice to the Ground of lack of jurisdiction.*

5. *The appellant craves leave to add or amend any Ground of Appeal.”*

7. The only issue emanating from the grounds raised by the assessee is with respect to the addition made by the Assessing Officer wherein the Ld.Authorised Representative [hereinafter “Ld.AR”] has challenged the jurisdiction of the Ld.AO in issuing the notice under section 148 of the Act. Ld.AR submitted that the assessee filed income tax return on 24.03.2022 along with the Tax Audit Report. He also further submitted that assessee has shifted his residence and hence notice sent to Bhimavaram addressee could not be responded. He further submitted that assessee has furnished additional evidences before Ld. CIT(A) which was not considered by the Ld. CIT(A). He therefore pleaded that the appeal may be remitted back to the file of the

Ld.CIT(A) for fresh consideration of the issue including the additional evidences.

8. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] submitted that assessee filed return of income in response to the notice under section 148 of the Act belatedly and hence it was considered as invalid. He also submitted that assessee has not raised any ground wherein the revenue has violated the provisions of Rule 46A of the I.T.Rules. He therefore submitted that since the assessee has not filed the valid return the Ld. CIT(A) has rightly dismissed the appeal of the assessee.

9. We have heard both the sides and perused the material available on record. It was the submission of the Ld.AR that assessee being a fish trader and due to lack of knowledge could not respond to the notices served through registered e-mail which is operated by the consultant of the assessee. However, the assessee has filed return belatedly on 24.03.2022 declaring loss of Rs.1,63,238/- in response to notice under section 148 of the Act dated 31.03.2021. This return submitted by the assessee was treated as non-est by the revenue. In these facts and circumstances, we are of the considered view that assessee shall be provided one more opportunity before Ld. CIT(A) and we hereby direct the Ld. CIT(A) to consider the return of income filed by the assessee belatedly in response to notice under section 148 of the Act and decide the case on merits in accordance with law. Accordingly, grounds raised by the

assessee are allowed for statistical purposes. Since the appeal is remitted back to the file of Ld.CIT(A), the ground raised by the assessee challenging the jurisdiction of the Ld. AO are not adjudicated.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25th July, 2025.

Sd/-
(रवीश सूद)
(RAVISH SOOD)
न्यायिक सदस्य/JUDICIAL MEMBER
Dated: 25.07.2025
Giridhar, Sr.PS

Sd/-
(एसबालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Bala Venkata Shiva Satya Naga Raju Mantena**
2-272/3, MalavaniThippa
Kaluvapudi – 534236
Kalla Mandalam
West Godavari District
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 1**
Bhimavaram
West Godavari District
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam