

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "SMC" BENCH, VISAKHAPATNAM**

(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

आईटीए. नं. / ITA No. 396/VIZ/2025 (A.Y. 2019-20)

Muppalla Padmavathi D.No. 8-188 Topu Kornepadu Vatticherukuru Mandal Guntur - 522017 [PAN:FOIPM1273L]	v.	Income Tax Officer - Ward – 2(1) Guntur Medical College Road Guntur – 522004 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	07.08.2025
घोषणा की तारीख/Date of Pronouncement	:	20.08.2025

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/250/2024-25/1069914096(1) dated 24.10.2024 for the A.Y.2019-20 arising out of the order

passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 24.10.2024.

2. At the outset, it is noticed from the appeal record that there is a delay of 169 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 order of the learned Commissioner of Income Tax (Appeals) in the case of the appellant was passed on 24.10.2024. As such, the appeal against this order ought to have been filed on or before 31.12.2024. However, the appeal could be filed only on 18.06.2025 resulting in a delay of 169 days in filing the appeal.

2. The appellant is 57 years old. She suffered from Cerebral Ischemic stroke in the second week of November, 2024 which caused paralysis on the left side of the body. The doctor advised to take complete bed rest along with medication and physiotherapy for recovery. As advised, the appellant was under bed rest and treatment from 18.11.2024 onwards and her condition started improving only from the month of June, 2025 onwards. The appellant was not in a position to attend to any of her normal affairs during the aforesaid period from 18.11.2024 onwards till the second week of June, 2025. Therefore, the appeal could not be filed within time. As soon as the appellant felt better, she took necessary steps and filed the appeal on 18.06.2025.

3. Thus, the delay of 169 days in filing the appeal was due to the reasons mentioned above which were beyond the control of the appellant. The delay is neither intentional nor deliberate. Therefore, the appellant prays the hon'ble ITAT to kindly condone the delay in filing the appeal and pass appropriate orders in the interest of rendering substantial justice."

3. On perusal of the contents of the affidavit filed by the assessee and medical certificate 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 169 days. Therefore, we hereby condone

the delay of 169 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 is an individual and has not filed the Return of Income for the A.Y.2019-20. The case of the assessee is flagged by the CBDT through INSIGHT under the "NMS-RMS" category that assessee entered into the following transactions for which the details are as under: -

Information Code	Information Description	Source of Information	Transaction amount in Rs.
F61-06(IP)	Imputed Information – Deposit in cash (Form60/61)	Andhra bank	10,92,685/-
Total Transactions during the year			10,92,685/-

5. As per the information flagged by the CBDT through "Insight portal" "Risk Management Strategy-Non filing of Return PAN cases" formulated by the CBDT Ld. Assessing Officer [hereinafter in short "Ld. AO"] is of the opinion that income chargeable to tax has escaped assessment in the case of assessee for the A.Y. 2019-20 within the meaning of Explanation 1 (i) to Sec. 148 of the Act. As per the TAS (Tax payer Annual Summary) of insight portal, the information under code F61-06(IP): Imputed Information - Deposit in cash (Form 60/61) amounting to Rs.10,92,685/- suggested that income chargeable to tax has escaped assessment. After obtaining necessary approval from the competent authorities Ld. AO issued Show Cause Notice under section 148(b) of the Act dated 02.03.2023. As there is no response from the assessee, Ld. AO issued order u/s.

148A(d) of the Act on 27.03.2023 along with notice under section 148 of the Act, requiring the assessee to file the Return of Income for the A.Y. 2019-20. Subsequently, notice under section 142(1) of the Act dated 02.11.2023, 23.11.2023 and 26.02.2024 was issued requiring the assessee to submit the information as called for. In response, assessee failed to comply with the notices. Thereafter, 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.10,92,685/- under section 69A of the Act.

6. On being aggrieved by the order of the Ld. AO, assessee preferred an appeal before Ld. CIT(A). Ld. CIT(A) sustained the addition made by the Ld. AO, thereby dismissed the appeal of the assessee.

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

“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 by invoking 249(4)(b) of the Act.

3. Any other ground that may be urged at the time of appeal hearing.

8. Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that assessee had no income during the relevant period and as such the provisions of section 249(4)(b) of the Act cannot be called into aid. In support of the above contention, Ld.AR placed reliance on the decision of the Co-ordinate Bench in

the case of Goli Pichaiah v. ITO in ITA No. 443/VIZ/2024 dated 20.12.2024 and he brought to our notice Para No. 6 & 7 of the order.

9. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the orders of the lower authorities.

10. We have heard the rival submissions and perused the material available on record. We observe that similar issue was considered and adjudicated by the Coordinate Bench in the case Goli Pichaiah v. ITO (supra) and decided the issue in favour of the assessee. While holding so the Coordinate Bench held as under:-

“6. We have considered the submissions made. Section 249(4)(b) of the Act, read as under: -

“S.249(4) No appeal under this Chapter shall be admitted unless at the time of filing of the appeal,-

(a) where a return has been filed by the assessee, the assessee has paid the tax due on the income returned by him; or

(b) where no return has been filed by the assessee, the assessee has paid an amount equal to the amount of advance tax which was payable by him:]

Provided that, in a case falling under clause (b) and on an application made by the appellant in this behalf, the Joint Commissioner (Appeals) or the Commissioner (Appeals) may, for any good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of that clause.”

7. *It can thus be seen that Clause (b) of sub-section 4 of section 249 of the Act would apply where no return has been filed by the assessee. However, at the same time the payment of advance tax would also always be subject to there being a taxable income which according to the assessee he had not earned any taxable income. It is true that in the case of Sree Sai Sameera Pharmacy v. ITO (supra) subsequently the return was filed. However, what essentially Coordinate Bench has held that when the assessee had no taxable income, the question of being the advance tax does not arise and in such case the provisions of section 249(4)(b) of the Act would not be applicable. In the given circumstances, it would be*

appropriate if the Ld.CIT(A) decides the appeal on its own merits and in accordance with law. The appeal is therefore partly allowed, the impugned order is set-aside. The appeal is restored back to the file of the Ld.CIT(A) for disposal according to law and on merits of the challenged impugned addition made under section 69A of the Act by providing one more opportunity to the assessee. The assessee shall cooperate for appropriate disposal of the appeal. The Appeal is disposed off in the aforesaid terms.”

11. Respectfully following the above decision, we remit this appeal back to the file of Ld. CIT(A) for disposal in accordance to law and on merits. At the same breath, we also hereby caution the assessee to promptly co-operate before the Ld.CIT(A) in the proceedings failing which the Ld.CIT(A) shall be at liberty to pass appropriate order in accordance with law and on merits based on the materials on the record. It is ordered accordingly.

12. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 20th August, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 20.08.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

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

1. निर्धारिती/ The Assessee : **Muppalla Padmavathi**
D.No. 8-188 Topu Kornepadu
Vatticherukuru Mandal
Guntur - 522017
2. राजस्व/ The Revenue : **Income Tax Officer - Ward – 2(1)**
Guntur Medical College Road
Guntur – 522004
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