

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**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.Nos.126 & 127/VIZ/2025
(निर्धारणवर्ष/ Assessment Years:2019-20 & 2020-21)**

Divyasri Sai Ram Annapurna Charitable Trust 7-421, Opp Sub-Registrar Office Chilakaluripet (V & M) Guntur – 522616, Andhra Pradesh [PAN:AABTD3023H] (अपीलधर्ती/Appellant)	Vs.	Income Tax Officer-Exemption Ward Guntur (प्रत्यर्ती/Respondent)
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C.Subrahmanyam, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Aparna Villuri, SR.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	20.08.2025
घोषणा की तारीख/Date of Pronouncement	:	28.08.2025

आदेश /O R D E R

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. These appeals are filed by the assessee against the different orders of Learned Commissioner of Income Tax (Appeal)/ADDL/JCIT(A), Thane [hereinafter in short "Ld.CIT(A)"] vide respective DIN & Order No. as stated below: -

ITA No.	DIN & Order No.	Dated
ITA No. 126/VIZ/2025	ITBA/APL/S/250/2024-25/1071688056(1)	30.12.2024
ITA No. 127/VIZ/2025	ITBA/APL/S/250/2024-25/1071688375(1)	30.12.2024

2. Since the appeals are belonging to same assessee and grounds raised by the assesseees in both the appeals are common and identical, both these appeals are clubbed and heard together and a consolidated order being passed. Firstly, we take up the appeal in ITA No. 126/VIZ/2025 (A.Y. 2019-20) and brief facts are culled out therefrom.

ITA No. 126/VIZ/2025 (A.Y. 2019-20)

3. Brief facts of the case are that, assessee is a charitable trust with religious activities, established on March 12, 2009. The trust remained inactive until F.Y.2017-18 and began its activities in F.Y.2018-19 and received provisional registration under section 12A of the IT Act on 17.11.2021. During the assessment year, the trust received funds from individuals for constructing a building/shelter for charity purposes. These funds were shown as 'Capital Fund' in the balance sheet and used for construction. Additionally, the trust received donations of Rs. 3,20,631/- for its objectives, which were fully spent during the year. The trust filed its return of income in ITR-7 on 28.11.2020, showing NIL income as the revenue receipts were spent on its objectives, and the capital receipts were shown in the balance sheet. However, the return was processed under section 143(1) of the IT Act on 08.02.2021, adding the entire amount of Rs. 45,20,631/- to income, resulting in a tax demand of Rs. 20,12,651/-.

4. Being aggrieved by the intimation issued by the of the CPC, Bangalore, assessee preferred an appeal before the Ld. CIT(A) and filed its submissions. Before the Ld. CIT(A), while filing the appeal, there was a delay of 526 days. With regard to the belated filing of the appeal, the assessee made submissions before the Ld. CIT(A) and sought for condonation of delay by stating that reasons for delay. However, the Ld. CIT(A)-NFAC rejected the assessee's plea for condonation of delay by holding that there is no sufficient cause for belated filing of the appeal and accordingly dismissed the assessee's appeal.

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

"1. That under the facts and circumstances of the case the orders passed u/s 143(1) of the IT Act that was up held by the learned CIT (A) vide order passed u/s 250 of the IT Act on dt. 30.12.2024 is not a valid order in the eyes of law.

2. The learned CIT(A) erred in not condoning the delay despite the assessee trust providing sufficient and reasonable explanation for the same. Given that the assessee is a charitable organization, the refusal to condone the delay and dismissing the appeal as non-est and infructuous causes undue hardship and adversely impacts its charitable activities.

3. Making adjustments and bringing to tax while processing the return u/s 143(1) of the IT Act, in so far as corpus donations, is not within the scope of adjustments as contemplated under the relevant section.

4. Without prejudice to ground no. 2&3 the Ld. CIT(A) ought to have known that the corpus donations were received with a specific direction to be spent towards building construction, shown as addition to capital work-in-progress in ITR filed, therefore, such receipts would not partake the character of voluntary contributions as defined in section 2(24) of the IT Act.

5. Even if, for the sake of argument but without conceding, the corpus donations are treated as ordinary donations and made subject to tax by the Assessing Officer, the AO was obligated to allow setoff for the

expenditure incurred from such donations. His failure to do so renders his action arbitrary and contrary to law.

6. The Ld. CIT(A) while processing the return, failed to consider and take cognizance of the expenses incurred by the assessee trust of Rs.3,52,694/-, spent towards the objects of the trust.

7. For these and other reasons the appellant prays for the quashing of the impugned orders and seeks relief in accordance with the grounds stated above and any additional grounds to be urged during the hearing of the case.”

6. At the outset, Ld. Authorised Representative [hereinafter in short “Ld.AR”], inviting our attention to the order of the Ld.CIT(A) submitted that the Ld.CIT(A) did not condone the delay of 526 days in filing the appeal stating that submissions are vague and dismissed the appeal without going into the merits of the case. Ld. AR submitted before us that Ld. CIT(A) dismissed the appeal of the assessee without condoning the delay in filing the appeal as no such sufficient cause is established. Further, Ld.AR submitted that the Ld.CIT(A) did not appreciate the submissions properly and without giving any reasons for not condoning the delay and except stating that submissions are vague, rejected the condonation petition. Ld.AR submitted that the delay may be condoned and the appeal be restored to the file of the Ld.CIT(A) for deciding on merits and pleaded that one more opportunity may be provided to the assessee in the interest of justice.

7. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] strongly placed reliance on the order of the Ld.CIT(A) in rejecting the condonation petition. Ld. DR strongly opposed for condonation of delay.

8. We have heard both the sides and perused the material available on record. The reasons for delay in filing the appeal before the Ld. CIT(A) are reproduced below: -

"The return of Income filed by the Assessee trust for the subject AY 2019-20 was processed u/s of the IT Act on dt. dt.08-02-2021. Whereas, in consequence to this the managing trustee of the assessee trust, initially, was under the bonafide belief that the case would be taken up for hearing by Jurisdictional assessing officer

Subsequently, the managing trustee was advised that an appeal has to be preferred against the intimation received u/s 143(1) of the IT Act.

As things stand thus, in the meanwhile, on dt.4th March 2021, the managing trustee met with an accident fracturing his left ankle and due to this, was hospitalized and also was advised to take bed rest till 15th April 2021. By this time, because of Covid situation and also because of the second wave of Covid outbreak which started in the month of May 2021, all these resulted in assessee losing track of filing the appeal against the said intimation received u/s 143(1).

Whereas, on dt. 14-07-2022, the managing trustee received a phone call from the local income-tax office directing the assessee trust to pay tax demand arising out of the intimation u/s 143(1) of the IT Act.

The managing trustee of the assessee trust immediately contacted his Auditor who informed him that since no appeal was filed against intimation received u/s 143(1) of the IT Act, therefore, it seems, department considered that the assessee trust accepted the demand, hence, wanted the assessee to pay the tax.

Then Assessee Trust was advised to file an appeal, accordingly, approached a senior counsel who filed the appeal on dt. 18-08-2022 causing a delay of 526 days. In this regard it is stated that there is no willful default in filing the appeal, It is also stated herewith the Hon'ble Supreme Court after considering the covid outbreak in the country and the genuine hardship faced by the assessee, vide its Suo Moto Writ Petition No.3/2020, extended the time-limit for filing appeal, suit, etc for orders passed between dt. 15-03-2020 to dt. 28-02-2022.

Considering the above submissions, we pray that the Respected Commissioner of Income Tax (Appeals) may kindly condone the delay of 526 days admit the appeal for hearing and its disposal."

9. We notice that the moot question to be adjudicated is with respect to condonation of delay. Broadly, we are of the view, that the Courts and the quasi-judicial bodies are empowered to condone the delay, if a litigant satisfies the Courts that there was sufficient reason for availing the remedy after the expiry of limitation. Such reasoning should be to the satisfaction of the Court. The expression “**sufficient cause or reasons**” as provided in sub-section (5) of section 253 of the Act is used in identical position in the Limitation Act 1963, and in CPC. Such expression has also been used in other sections of the Income Tax Act such as section 273, 274, etc. Keeping in mind, the authoritative pronouncement from Hon’ble Apex Court, it is admitted position that the words “**sufficient cause**” appearing in sub-section (5) of section 253 of the Act should receive a liberal construction so as to advance substantial justice. It must be remembered that in every case of delay, there can be some lapses on the part of the litigant concern. That alone is not enough to turn down the plea and to shut the doors against him, unless and until, it makes a mala-fide or a dilatory statutory, the court must show utmost consideration to such litigant. Further the length of delay is immaterial, it is the acceptability of the explanation and that is the only criteria for condoning the delay.

10. In such a situation, no doubt filing of an appeal is a right granted under the statute to the assessee and is not an automatic privilege, therefore, the assessee is expected to be vigilant in adhering to the manner and mode in which

the appeals are to be filed in terms of the relevant provisions of the Act. Nevertheless, a liberal approach has to be adopted by the appellate authorities, where delay has occurred for “**bona fide reasons**” on the part of the assessee or the Revenue in filing the appeals. In matters concerning the filing of appeals, in exercise of the statutory right, a refusal to condoned the delay can result in a meritorious matter being thrown out at the threshold, which may lead to miscarriage of justice. The judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

11. The Hon’ble Apex Court in a celebrated decision in **Collector, Land Acquisition v. Mst. Katiji & Ors.** [167 ITR 471] opined that when technical consideration and substantial justice are pitted against each other, the courts are expected to further the cause of substantial justice. This is for the reason that an opposing party, in a dispute, cannot have a vested right in injustice being done because of a non- deliberate delay. Therefore, it follows that while considering matters relating to the condonation of delay, judicious and liberal approach is to be adopted. If “sufficient cause” is found to exist, which is bona-fide one, and not due to negligence of the assessee, the delay needs to be condoned in such cases. The expression ‘**sufficient cause**’ is adequately elastic to enable the courts to apply law in a meaningful manner, which sub-serves the end of justice- that being the life purpose of the existence of the institution of the

courts. When substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred. This means that there should be no malafide or dilatory tactics. Sufficient cause should receive liberal construction to advance substantial justice. The Hon'ble Apex Court in **Collector, Land Acquisition vs Mst. Katiji & Ors. (167 ITR 471)** observed as under:-

“3. The legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the others courts in the hierarchy.”

12. In the light of the above judicial pronouncements and keeping in view the principles of natural justice, we are of the considered view that the *lis* between the parties be decided on merits and no person should be condemned unheard. Therefore, the delay on the part of the assessee in filing appeal before Ld.CIT(A) is condoned and the appeal is remanded back to the file of Ld.CIT(A) to decide the appeal filed by the assessee on merits. It is needless here to mention that before passing the order of assessment, Ld. CIT(A) shall provide sufficient opportunity of hearing to the assessee. Before parting, we may make it clear that our decision to restore the matter back to the file of Ld.CIT(A) shall in no way be construed as having any reflection or expression

on the merits of the dispute, which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

13. In the result, appeal of the assessee is allowed for statistical purpose.

ITA No. 127/VIZ/2025 (A.Y. 2020-21)

14. The facts and grounds raised by the assessee in ITA No. 127/VIZ/2025 are identical to facts and grounds raised in ITA No. 126/VIZ/2025 for the A.Y.2019-20. The assessee has filed the appeal before the Ld.CIT(A) with a delay of 231 days. Accordingly the decision in ITA No. 126/VIZ/2025 (A.Y. 2019-20) shall mutatis mutandis applies to ITA No.127/VIZ/2025 (A.Y. 2020-21). We order accordingly.

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

16. To sum-up, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 28th August, 2025.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 28.08.2025

Giridhar, Sr.PS

Sd/-

(एस बालाकृष्णन)

(S. BALAKRISHNAN)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Divyasri Sai Ram Annapurna Charitable Trust**
7-421, Opp Sub-Registrar Office
Chilakaluripet (V & M)
Guntur – 522616, Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer-Exemption Ward**
Guntur
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