

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' SMC ' Bench, Hyderabad

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No.1026/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2015-16)

Shri Sunku Surendra NELLORE PAN:AYSPS4353G (Appellant)	Vs.	Income Tax Officer Ward - 1 NELLORE (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri VVSC Muralidhar Rao, Advocate	
राजस्व द्वारा / Revenue by::	Shri Suresh Babu KN, Sr.AR	
सुनवाई की तारीख / Date of hearing:	25/08/2025	
घोषणा की तारीख / Pronouncement:	04/09/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal by the assessee is directed against the order dated 28/02/2019 of the learned CIT (A)-Tirupati, for the A.Y.2015-16.

2. There is a delay of 2235 days in filing the present appeal. The assessee has filed a petition for condonation of delay which is supported by an affidavit. The learned Counsel for the assessee has submitted that the assessee was suffering from

severe abdominal pain and due to ill health, there was a severe attack of liver infection. For treatment, the assessee was admitted to hospital and on the request of the family members, the assessee was discharged on 05/03/2019. Thereafter, the assessee went to Chennai for better treatment where the assessee took the country medicine which took time to recover from the ailments and therefore, the assessee was not in a position to file the appeal in time. Thus, the learned Counsel for the assessee has submitted that the delay in filing the appeal is neither intentional nor willful but due to unavoidable circumstances. In support of his contention, he has relied upon the judgment of the Hon'ble Supreme Court in the case of Collector Land Acquisition vs Mst. Katiji & Ors (67 ITR 471). He has also referred to the certificate issued by the Doctor.

3. On the other hand, the learned DR has objected to the condonation of delay and submitted that the assessee has not explained any reasonable cause for such an inordinate delay in filing the appeal. Further, the assessee admitted the discrepancies in the income and conceded to the addition made by the Assessing Officer during the assessment proceedings. The learned CIT (A) also called for a remand report and then passed the impugned order. Therefore, seeking the condonation of delay by the assessee after more than 6 years is nothing but misuse of process of law.

4. We have considered the rival submissions and carefully perused the reasons explained by the assessee in the affidavit which reads as under:

Before the Income Tax Appellate Tribunal, Hyderabad.

I.A.No /2025

I.T.A.No /2025

Sunku Surendra- ----- Appellant.

Vs.

**Income Tax officer
Ward-1, Nellore. ----- Respondent.**

AFFIDAVIT

I, Sunku Surendra, Son of Ramalaingaiah, Hindu, aged about, 46years, business, Resident of D.No-6-198, Dasa Nivas, Pappula Street, Stonehousepet, , Nellore City, SPSR Nellore District, do here by solemnly and sincerely affirm and state as follows;

- 1) I am the Petitioner herein and I well acquainted with facts of the case.
- 2) I submit that, I am filing the present appeal against the impugned order of the learned Income Tax Officer, Ward-1, Nellore for the Asst.Year 2015-16 with a delay of 2176days. The delay is caused due to my ill -health. On, 25th February 2019, I was attacked by severe Liver infection, with Abdominal pain and I was admitted to Hospital by name NEW NAVYA CLINIC, besides Indira Bhavan, Sankar Agraharam, Nellore and at request of my elders I was discharged on 05-03-2019 with an advice to join me at Chennai for better treatment. The Doctors in Chennai also confirmed that I was suffering from Severe Jaundice. After that, I was advised to take Country medicine at Chennai. After onwards I am taking Country medicine at Chennai. Still I was slowly recovering from the above said decease. Hence I could not approach my

S. Surendra

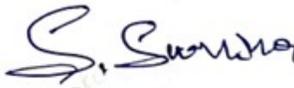
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Authorized representative and therefore, I am unable to present this appeal in time. There is no willful negligence in filing the present appeal with a delay of 2176 days . I here with enclosing the Medical Certificate issued by the Doctor for your kind perusal.

At this instance I very much rely on the following citation for the condonation of delay.

Collector, Land Acquisition Vs. Mst.Katiji &Other (1987) 167 ITR471

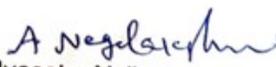
Hence I pray your good selves, kindly condone the delay of 2176 days in filing the appeal before your good selves. Otherwise I may be put to severe loss and injury and irreparable injury.


Deponent.

The above stated facts are true to the best of my knowledge, belief and information.


Solemnly Executed before me


V.V.S.C Muralidhar Rao
Advocate High Court of A.P.
27/11/838, A.C. Nagar
NELLORE. Cell : 9866905975


Advocate, Nellore
A. NAGALAKSHMI
B.Com.,L.L.B.,
ADVOCATE

5. Thus, the assessee has explained that due to ill health, the assessee was hospitalized for treatment on 25/02/2019 and then was discharged on 05/03/2019. The assessee has filed the copy of the certificate issued by the doctor as under:

డా॥ యె. మహేంద్ర కిషోర్
M.B.B.S. MD, C.Diab.,FLSM.,
కన్సల్టెంట్ ఫిజిషియన్, డయాబిటాలజిస్ట్



Dr. Y. Mahendra Kishore
M.B.B.S. MD, C.Diab.,FLSM.,
Consultant Physician, Diabetologist.

నూర్సా నవ్వు క్లినిక్

Name:

Date: 11-06-2025

CERTIFICATE

This is to certify that Sri Sunku Surendra S/o Ramaligaiah resident of Door No. 6-696/1, Pappula Street, Nellore town was admitted in my Hospital on 25/02/2019 suffering from severe abdominal pain after treatment, it was lead to high degree of lever infection. He was under gone treatment until 05/03/2019. But the patient's condition was not satisfactory, at the request of the family members the patient was discharged on 05/03/2019 with an advice to take him to Chennai for better treatment.

Y. Mahendra Kishore 11/6/25
Dr. Y. Mahendra Kishore
M.B.B.S., MD, C. Diab, FLSM.
Consultant Physician, Diabetologist
Regd. No. 53124

6. It is clear from the certificate that the said certificate was issued by the Doctor on 11/06/2025. The assessee has not filed any medical record to show that the assessee was admitted in the hospital or any prescription regarding the treatment of the assessee during the said period of hospitalization or even at the time of discharge. Since there is no other medical record after 05/03/2019, the assessee has taken a plea that the assessee went to Chennai for further treatment and took country medicine instead of treatment by any qualified doctor. This is an inordinate delay of more than 6 years in filing the present appeal. In the absence of any record of admission and discharge of the assessee from the hospital, the certificate issued by the Doctor on his own letterhead instead of the letterhead of the hospital cannot be considered as a reasonable or justifiable explanation for such an inordinate delay, much less a sufficient cause of the delay. There is no quarrel on the point that the Courts should take a liberal view while construing the sufficient cause and lean in favour of the litigant to condone the delay in filing the appeal instead of deciding the matter on technicalities. However, at the same time, the litigant is also not allowed to use the process of law to achieve an ulterior purpose in underhand way by filing the appeal belatedly. Therefore, for taking a lenient view to interpret the expression "sufficient cause" there must be a reasonable cause to justify the delay particularly, when there is an inordinate delay. We cannot overlook the apparent unacceptable and unsatisfactory reasons explained by the assessee when there is absolutely no justification for the inordinate delay in filing the appeal. The

assessee has failed to made out a case that he has acted bonafidely and has also taken all possible steps within his power and control to file the appeal without unnecessary delay. Citing one instance of a treatment taken by the assessee for a short duration in the month of February 2019 cannot be considered as a sufficient cause for the delay of more than 6 years. Further, it is pertinent to note that the Assessing Officer has made an addition of Rs.7,15,240/- on the basis of the transactions of cash deposits in the bank account as well as cash book produced by the assessee in para 3 of the assessment order as under:

3. The information furnished is verified thoroughly with reference to the cash book and bank account statements and explained the cash deposits in the bank account. On verification of the Cash Book produced, there is an entry 'To Sales (Being sale of onions) of Rs. 7,15,240/- on 23-01-2015. The AR was asked to furnish the details of purchase and sale bills of the above transaction, the AR expressed his inability to produce the same, hence, Rs. 7,15,240/- is treated as Income of the assessee and added to the Income returned for which the AR agreed and the assessment is completed as under :

Income Returned	: Rs. 4,38,750
Add: As discussed above at para 3	: <u>Rs. 7,15,240</u>
Income Assessed	: Rs. 11,53,990
Tax there on	
(Income Tax at Normal Rates on 438750	
- Rs. 18875; Income Tax @ 30%(115BBE)	
on 715240 - Rs. 214572)	
Add: SC & Education cess	: Rs. 2,33,447
Tax payable	: <u>Rs. 7,003</u>
Less : Prepaid taxes	: Rs.2,40,450
Tax Payable	: <u>Rs. 38,436</u>
Add : Interest u/s.234A	: Rs.2,02,014
Add : Interest u/s.234B	: Rs. 2,020
Total tax payable	: <u>Rs. 66,663</u>
Add: Refund already issued	: Rs.2,70,697
Total Tax Payable	: <u>Rs. 22,750</u>
Add : Interest u/s 234D	: Rs.2,94,073
Total Tax payable	: <u>Rs. 3,071</u>
	: Rs.2,96,518
	(OR)
	: Rs. 2,96,520/-

(Rupees Two Lakh Ninety Six Thousand Five Hundred and Twenty only)
This should be paid as per the Demand Notice & Challan enclosed.
Penalty proceedings u/s.271(1)(c) are initiated separately.



[Signature]
(P. SURESH SIRANGI)
Income Tax Officer,
Ward-1, Nellore.

Copy to the assessee.

7. It reveals from the assessment order that during the assessment proceedings, the learned Counsel for the assessee of the assessee agreed to the addition made by the Assessing Officer as the assessee was not having any explanation or record of purchase and sale of onions as claimed by the assessee. Therefore, in the facts and circumstances of the case, the appeal filed by the assessee after a delay of more than 6 years is an attempt to save the limitation in underhand way without explaining the reasonable or justifiable cause for such an inordinate delay. Hence, we decline to condone the delay of 2235 days in filing the present appeal and consequently, the appeal of the assessee is liable to be dismissed being not maintainable. We order accordingly.

8. Since we have dismissed the appeal of the assessee as not maintainable being barred by limitation, therefore, we do not propose to go into the merits of the appeal.

9. In the result, appeal filed by the assessee is dismissed being barred by limitation.

Order pronounced in the Open Court on 4th September, 2025.

Sd/- (MANJUNATHA, G.) ACCOUNTANT MEMBER	Sd/- (VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 4th September, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Sunku Surendra, 6-696/1 Opp: SRKLR Lorry Office, Pappula Street, Stonehousepet, Nellore Town 524002, Nellore
2	Income Tax Officer Ward 1 Aditya Nagar, Children's Park Road, Besides Hanuman Temple, Nellore Town & City, Nellore 524002
3	Pr. CIT – Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order