

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM “SMC” BENCH, VISAKHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON’BLE VICE PRESIDENT
&**

SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER

आईटीए. नं. / ITA No. 375/VIZ/2025 (A.Y. 2016-17)

Gummadi Saraswathi C/o. CA MV Prasad First Floor Opposite Prasad & Co Contractors D.No. 6-3-871, Snehalata Greenlands Road, Begumpet Hyderabad – 500016 [PAN:AMAPG7100K]	v.	Income Tax Officer - Ward – 1 Income Tax Office D.No. 19-15-47 Opp. Sai Baba Temple Tenali – 522201 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri MV Prasad, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	12.08.2025
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/250/2024-25/1071029287(1) dated 09.12.2024 for the A.Y.2016-17 arising out of the order

passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 30.03.2022.

2. At the outset, it is noticed from the appeal record that there is a delay of 94 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: -

"It is submitted that there is delay of 94 days (154 days – 60 days) occurred in preferring the appeal before Hon'ble ITAT. The reasons for such delay was that the originally an assessment has been finalised by the Assessing Officer bringing the value of excess stamp duty paid on acquisition of property u/s.56(2)(vii) of the I.T. Act. The appellant has preferred an appeal before Learned CIT(Appeals). Meanwhile the appellant has opted for DTVSV Scheme and accordingly filed Form No.1 before the Jurisdictional Pr.CIT, Vijayawada. However, during such time, the assessment has been reopened u/s.263 of the I.T. Act and as such the proceedings are pending. The appellant do not know properly the provisions of Scheme waited till the proceedings u/s. 263 initiated by the Pr.CIT are closed. She thought that after finalization of the 263 proceedings and consequent assessment, the DTVSV Scheme will be applicable and waited for such orders. However, the application was rejected by the Pr.CIT stating that the proceedings u/s.263 of the I.T. Act pending and hence the matter has not reached any finality.

Subsequently, the Learned CIT(A) has dismissed the appeal filed by the appellant and however, in view of pendency of the application filed opting the DTVSV Scheme and also in view of pending of the proceedings u/s.263 of the I.T. Act, the appellant due to lack of adequate knowledge kept quite for some time awaiting for the response from the Pr.CIT. Thus by the time the appellant is informed with the rejection of the DTVSV Scheme the stipulated time has been elapsed for filing further appeal and thus there was delay of 94 days in preferring the appeal.

As there was no malafide intention and delay only due to lack of proper knowledge and lack of understanding the appeal provisions and also in view of opting out for DTVSV Scheme, the appellant was prevented in filing of the appeal in time. Therefore, it is requested that as the delay is not intentional, the delay of 94 days occurred in filing of appeal may kindly be condoned and appeal may kindly be admitted."

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 94 days. Therefore, we hereby condone the delay of 94 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 being an individual filed her return of income for the A.Y.2016-17 on 05.12.2018 admitting a total income of Rs.2,27,030/-. The case of the assessee was reopened for assessment on grounds of escapement of income based on the credible information available on record reveals that the assessee has purchased an immovable property of Rs.18,76,500/- whose stamp value was Rs.37,53,000/-. It was clearly evident that the assessee has purchased an immovable property in the F.Y. 2015-16 for a consideration which is less than the stamp duty value of the property by an amount exceeding Rs. 50,000/-, but has not shown income to the tune of Rs.18,76,500/ (being difference of purchase value and stamp value of the immovable property) under the head income from other sources as required under the provision of section 56(2)(vi)(b) of the Income Tax Act, 1961. Thereafter, Ld. Assessing Officer [hereinafter in short "Ld. AO"] after taking necessary approval from the competent authorities issued notice under section 148 of the Act on 30.03.2021. In response to the notice under section 148 of the Act the assessee had filed her

return on 31.05.2021 at income of Rs.2,27,030/-. Subsequently, notice u/s.142(1) was issued to the assessee in response to which assessee has submitted the details called for. Ld. AO after considering the submissions of the assessee, Ld. AO noticed that assessee has purchased the land on lesser value than stamp value by an amount of Rs.18,76,500/- but no income to the tune of Rs.18,76,500/- was disclosed by the assessee in her return. Accordingly, Ld. AO proceeded to add the excess of the stamp duty value of the property over the purchase consideration i.e. Rs.18,76,500/- and treated as undeclared income from other sources under section 56(2)(vii) of the Act.

5. Aggrieved by the order of the Ld. AO, assessee filed an appeal before the Ld. CIT(A). Ld. CIT(A) considering the submissions of the assessee dismissed the appeal of the assessee.

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

1. The order passed by the Learned CIT (Appeals) is against the law as well as on the facts of the case.

2. On the facts and circumstances of the case, the Learned CIT(Appeals) erred in upholding the addition of Rs. 18,76,500/- made by the Assessing Officer u/s.56(2)(vii) of the I.T.Act.

3. On the facts and circumstances of the case, the reopening of the assessment under section 147 of the I.T.Act is invalid in law and consequent issue of notice u/s.148 of the Act is also without jurisdiction in the absence of requisite satisfaction in the Assessment order for the Asst year under consideration.

4. On the facts and circumstance of the case, the assessment made for the Asst. Year 2016-17 consequent upon the invalid notice is also to be treated as invalid before eyes of law.

5. *On the facts and circumstances of the case, the Learned CIT(A) ought to have appreciated that the addition made was without giving proper opportunity to the appellant and would have deleted the same.*

6. *The Appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal.”*

7. Additionally, assessee also filed a petition under Rule 29 of the Income Tax Appellate Tribunal Rules (in short “ITAT Rules”) for production of additional evidences.

8. At the time of hearing, Ld. Authorised Representative [hereinafter “Ld.AR”] of the assessee submitted additional evidences before us, which was not submitted before the lower authorities and he prayed that these additional evidences contain the details of transactions relating the purchase of property. Ld.AR therefore pleaded that these additional evidences may be accepted by the Tribunal and the matter be remitted back to the file of the Ld. AO for examination and deciding the case on merits.

9. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”], however, objected for admission of additional evidences at this stage, however, she has no objection to remit this issue back to the file of the Ld. AO for verification.

10. We have heard the rival submissions and perused the material available on record including the petition filed by the assessee Under Rule 29 of ITAT Rules. We observe that assessee has filed detailed paper book which was submitted

before lower authorities and also filed before us additional evidences with regard to the issue under consideration. We therefore in order to provide one more opportunity to the assessee by following the principles of natural justice, considered it deem fit to remit the matter back to the file of the Ld. AO for adjudicating the case on merits based on the additional evidences produced by the assessee. Needless to say, that the assessee should cooperate with the assessment proceedings before the Ld. AO without seeking unnecessary adjournments. Thus, grounds raised by the assessee are disposed off statistically.

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

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

Sd/-
(दुव्वूरु आर एल रेड्डी)
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT
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 : **Gummadi Saraswathi**
C/o. CA MV Prasad
First Floor
Opposite Prasad & Co Contractors
D.No. 6-3-871, Snehalata
Greenlands Road, Begumpet
Hyderabad – 500016
2. राजस्व/ The Revenue : **Income Tax Officer - Ward – 1**
Income Tax Office
D.No. 19-15-47
Opp. Sai Baba Temple
Tenali – 522201
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