

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

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस बालाकृष्णन, माननीय लेखा सदस्य

**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI S BALAKRISHNAN HON'BLE ACCOUNTANT MEMBER**

आयकरअपीलसं./I.T.A. No. 474/Viz/2024
(निर्धारणवर्ष/ Assessment Year:2015-16)

Moturu Chandra Sekhara Rao, 759 CHATEAUS DR. COPPELL, TEXAS, USA. PAN: BINPM8812Q	VS.	Income Tax Officer, Ward-2(1), CR Buildings, MG Road, Vijayawada, Andhra Pradesh-520010.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	01/09/2025
घोषणा की तारीख/ Date of Pronouncement	:	09/09/2025

ORDER

PER S. BALAKRISHNAN, AM:

This appeal filed by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi in DIN & Order No. ITBA/NFAC/S/250/2024-25/1067366562(1), dated 06/08/2024 arising out of the order passed

U/s. 147 r.w.s 144 r.w.s 144B of the Income Tax Act, 1961 (the Act), dated 07/01/2024 for the Asst. Year 2015-16.

2. At the outset, it is noticed that there is a delay of 47 days in filing the appeal before the Tribunal. In respect of the belated filing of the appeal, the assessee filed a petition for condonation of delay along with an affidavit and the relevant contents are scanned and pasted herein below:

PETITION FOR CONDONATION OF DELAY:

1. The order of the learned Commissioner of Income Tax (Appeals) was passed on 06.08.2024. As such, the appeal against this order ought to have been filed on or before 04.10.2024. However, the appeal could be filed only on 19.11.2024 resulting in a delay of 47 days in filing the appeal.
2. The appellant is an Non-resident individual residing at U.S.A since a decade. The appellant comes to india on very important occasions only. The father of the appellant residing in india but he is bedridden and could not actively monitor any transaction. The mother of the appellant is not alive. Father-in-law of the appellant is looking after his father. The Father-in-law of the father is also older and aged about 80 years. The appellant being a non-resident and do not having any active support from his father and father-in-law, from india. Further the e-mails relating to Notices / Orders sent by the assessing officer were stored in spam folder of the e-mail account instead of inbox. Due to the above reasons the appellant not able to receive the notices in time and not able to respond to notices in due time. The appellant only came to know about the previous notices when the penalty notices were issued by the assessing officer in physical form. The appellant immediately responded and consulted with a chartered accountant and filed the appeal with reasons for condonation of delay before the CIT (Appeals). The learned CIT (Appeals) have dismissed the appeal vide Order DIN No ITBA/NFAC/S/250/2024-25/1067366562(1) dated 06-08-2024 without considering the hardship faced by the appellant in timely responding to the notices. The appellant came to India on 31-10-2024 to look after the appeal. A copy of the US Passport is enclosed for your perusal. I pray the Hon'ble ITAT to condone the delay in filing the appeal and allow the appellant to present his case before the appellate authorities.
3. Thus, the delay in filing the appeal was due to the reasons explained above which were beyond the control of the appellant. The delay was neither intentional nor deliberate. Therefore, the appellant prays the hon'ble ITAT to kindly condone the said delay of 47 days in filing the appeal and to pass appropriate orders in the interest of rendering substantial justice.

3. Considering the above reasons adduced by the assessee for filing of the appeal beyond the prescribed time limit with a delay of 47 days, we are of the considered view that there is a sufficient and reasonable cause that prevented the assessee in filing the appeal within the prescribed time limit. Therefore, we hereby condone the delay of 47 days and proceed to adjudicate the appeal on merits.

4. Brief facts of the case are that the assessee is an individual, Non-resident Indian. As per the information available with the Department, the Ld. AO observed that the assessee had deposited cash of Rs. 50,00,000/- in his bank account with Andhra Bank [now Union Bank of India]. The assessee is required to file the return of income as the amount of cash deposited is more than the prescribed limit however, the assessee did not file his return of income for the AY under consideration. Thereafter, the Ld. AO issued statutory notices to the assessee however, the assessee did not respond to the notices and therefore, show cause notice dated 20/12/2023 was issued. Even then, there was no compliance from the assessee. Therefore, the Ld. AO came to a conclusion that the assessee's bank account was credited with Rs. 61,97,471/- which includes cash credit of Rs. 50 lakhs and interest credit of Rs. 62,471/-. The Ld. AO further observed that even after given multiple opportunities, the assessee failed to

explain the source of total credit of Rs. 61,35,000/- [Rs. 61,97,471 – Rs. 62,471] and also the assessee failed to offer the same for taxation by filing the return of income. Thus, the Ld. AO made addition of Rs. 61,35,000/- as unexplained money and Rs. 62,471/- as income from other sources thereby determining the total income of the assessee at Rs. 61,97,471/-. Aggrieved by the order of the Ld. AO, the assessee carried the matter in appeal before the Ld. CIT(A) in appeal belatedly.

5. On appeal, the Ld. CIT(A) dismissed the appeal of the appeal by holding that even though the assessee has admitted in Form 35 that there is a delay in filing the appeal, the assessee has not given any sufficient and reasonable cause for such delay. Thus, the Ld. CIT(A) dismissed the appeal of the assessee in limine. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. *The order of the Ld. CIT(A) is contrary to the facts and also the law applicable to the facts of the case.*
2. *The Ld. CIT(a) is not justified in dismissing the appeal in limine by invoking the provisions of section 249(4) of the Act.*
3. *The Ld. CIT(A) omitted to have deleted the additions made by the Assessing Officer in respect of cash deposits to the tune of Rs. 50 lakhs and other credits to the tune of Rs. 11,35,000/- and in respect of interest credit to the tune of Rs. 62,471/- under the head income from other sources without considering the explanation offered by the appellant.*
4. *Any other ground that may be raised at the time of hearing of the appeal.”*

6. At the outset, the Ld. Authorized Representative [AR] submitted that the Ld. CIT(A)-NFAC ought to have considered the explanation of the assessee with respect to the condonation

of delay in filing the appeal before the Ld. CIT(A)-NFAC as the assessee was prevented by a reasonable and sufficient cause ie., the appellant is not aware of the notices issued and orders passed. The appellant got the knowledge of the same only when penalty notices were physically received. The Ld. AR also further submitted that assessee being a non-resident was not aware of the mails received due to fact that it was delivered into the "Spam Folder". The Ld. AR therefore submitted that the assessee could not respond to the notices. The Ld. AR also submitted that the delay of 90 days in filing the appeal is not on account of negligence or any deliberate act of the assessee. Ld. AR also submitted that without considering the explanation and the submissions of the assessee, the Ld. CIT(A)-NAFC dismissed the appeal of the assessee by denying the condonation petition filed before him. The Ld. AR therefore pleaded that the matter may be remitted back to the file of the Ld. CIT(A)-NFAC to decide the appeal on merits.

7. On the other hand, the Ld. Departmental Representative [DR] heavily relied on the orders of the Ld. Revenue Authorities. The Ld. DR further submitted that before the Ld. CIT(A)-NFAC if there is a delay, the onus is on the assessee to explain each day's delay with proper evidence. The Ld. DR also

submitted that since the assessee has not discharged his onus, the Ld. CIT(A)-NFAC has rightly dismissed the appeal of the assessee as inadmissible. In toto, the Ld. DR supported the decision of the Ld. Revenue Authorities and pleaded to uphold the decision of the Ld. AO.

8. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is a fact that on being aggrieved by the addition made by the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC belatedly. It is also a fact that with respect to the belated filing of the appeal, the assessee has explained his reasons by stating that *the appellant is not aware of the notices issued and orders passed. The appellant got the knowledge of the same only when penalty notices were physically received* and therefore the assessee the appeal could not be filed within the stipulated time before the Ld. CIT(A)-NFAC. In our considered opinion, the Ld. CIT(A)-NFAC ought to have considered the explanation given by the assessee for belated filing of the appeal and ought to have disposed of the appeal on merits. Instead, the Ld. CIT(A)-NFAC dismissed the appeal in-limine. In this situation, considering the facts and circumstances of the case we condone the delay of 90 days in

filing the appeal before the Ld. CIT(A) and thereby remit the matter to the file of the Ld. CIT(A)-NFAC with a direction to dispose of the appeal on merits. Further, we also hereby caution the assessee to cooperate before the Ld. CIT(A)-NFAC in their proceedings, otherwise Ld. Revenue Authorities are at liberty to pass orders in accordance with law based on the material available on record. It is ordered accordingly.

9. In the result, appeal of the assessee is allowed for statistical purposes as indicated herein above.

Order pronounced in the open court on 09th September, 2025.

Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER	Sd/- (एस बालाकृष्णन) (S BALAKRISHNAN) लेखासदस्य/ACCOUNTANT MEMBER
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Visakhapatnam, dated 09.09.2025.

OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Moturu Chandra Sekhara Rao, 759 CHATEAUS DR. COPPELL, TEXAS, USA.
2.	राजस्व/ The Revenue	:	Income Tax Officer, Ward-2(1), CR Buildings, MG Road, Vijayawada, Andhra Pradesh-520010.
3.	The Principal Commissioner of Income Tax,		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Visakhapatnam.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam.