

आयकर अपीलिय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam “Division” Bench, Visakhapatnam

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.409/Viz/2025**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri Suri Babu Krovvidi East Godavari Distt. PAN:AEJPK1777P (Appellant)	Vs.	Income Tax Officer VIJAYAWADA (Respondent)
निर्धारित द्वारा/Assessee by:	Shri Naresh Gowlikar, CA (hybrid)	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of hearing:	10/09/2025	
घोषणा की तारीख/Pronouncement:	17/09/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 21/02/2025 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

2. There is a delay of 56 days in filing the present appeal. The assessee has filed a petition for condonation of delay to explain the cause of the delay which is supported by an affidavit. The learned Counsel for the assessee has submitted that the assessee is a layman and the assessee was not having any knowledge about the tax and procedural requirement of filing the appeal against the order of the learned CIT (A). He has further

submitted that due to lack of proper advice from the Tax Consultant, the assessee was unable to file the appeal within the period of limitation which has resulted a delay of 56 days in filing the present appeal. He has pointed out that the assessee is a salaried person having a meagre salary income of Rs.1,17,692/- whereas the Assessing Officer has assessed the total income of the assessee at Rs.1,35,39,010/-. The learned Counsel for the assessee has pointed out that the assessment order passed by the Assessing Officer is highly arbitrary and contrary to the correct facts. The Assessing Officer has not adhered to the CBDT instructions on the assessment of the correct income of the assessee. The learned Counsel for the assessee has submitted that during the year there was a transaction of sale of property which is reflected in the bank account of the assessee but the Assessing Officer has made the addition on multiple times of the same transactions without considering the correct income arising from the said transaction. The learned Counsel for the assessee has pointed out that the Long Term Capital Gains from the said transaction is only Rs.4,03,702/- apart from the salary income of Rs.1,17,692/- against which the Assessing Officer has made exaggerated assessment at Rs.1,35,39,000/-. Thus, he has submitted that the order passed by the Assessing Officer has caused a gross injustice to the assessee and further the learned CIT (A) has not considered and decided the appeal of the assessee on merit but the same was dismissed in limine by declining to condone the delay of 10 days in filing the appeal. Thus, he has submitted that the appeal of the assessee may be admitted for adjudication on merits otherwise it would result a gross injustice to the assessee.

3. On the other hand, the learned DR has submitted that the assessee's conduct is very casual and negligent as he has belated the appeal before the learned CIT (A) and again a belated appeal before this Tribunal. He has objected to the condonation of the delay.

4. We have considered the rival submissions as well as the relevant material available on record. At the outset, we note that the Assessing Officer has considered this fact that the assessee has received a salary of Rs.1,17,692/- from M/s. Tata Steel BSL Ltd in para 4.1 as under:

“4.1 Considering the facts of the case and non-compliance of the assessee in response to Notices u/s 142(1) and SCN. It is clear that the assessee has received salary of Rs.1,17,692/- from the employer M/s Tata Steel BSL Limited. In absence of reply from the assessee the salary received of Rs.1,17,692/- is added to the total income of the assessee u/s 17 of the Act.

(Addition of Rs.1,17,692/-)”

5. The assessee being a salaried employee and earning a meagre salary income of Rs.1,17,692/- was not required to file any return of income if there is no other income during the year. The Assessing Officer further noted in para 4.2 that in the absence of any documentary evidence with respect to the cost of acquisition, transfer expenses, the entire sale consideration was treated as capital gain at Rs.12,53,000/-. Thus, this action of the Assessing Officer is also highly arbitrary when he has assessed the entire sale consideration as Long Term Capital Gains in the hand of the assessee. Thereafter, the Assessing Officer has made another addition on account of cash deposits in the bank account of the assessee without considering the sale proceeds of the

property as a source and further, it appears that the amount as added by the Assessing Officer is a multiple of the sale proceeds. Thereafter, after the Assessing Officer has also made an addition of time deposits without considering the fact that the deposits made in the bank account were transferred to the time deposits.

6. We further note that the learned CIT (A) has not decided the appeal of the assessee on merit but the same was dismissed by declining to condone the delay of 10 days in filing the appeal. Therefore, when the income assessed by the Assessing Officer prima facie is highly arbitrary and excessive of the real income earned by the assessee on account of sale of property, then the appeal of the assessee is required to be considered on merits instead of deciding the same on technical ground of delay in filing the appeal. The assessee has also explained the cause of the delay of 56 days in filing the appeal before the Tribunal.

7. Having considered the peculiar facts and circumstances of the case and in the interest of justice, we condone the delay of 56 days in filing the present appeal.

8. The assessee has raised the following grounds of appeal:

1. ADDITION OF Rs. 48,82,767/- TOWARDS ALLEGED CASH DEPOSITS – BASED ON ERRONEOUS DUAL REPORTING OF A SINGLE CASH TRANSACTION BY BANK:

The learned Assessing Officer erred in making an addition of ₹48,82,767/- under section 69A by treating a single cash deposit of ₹24,00,000/- (made on 12.06.2015) as two separate deposits, due to duplicate reporting by different branches of the same bank. The source of the cash deposit is traceable to sale proceeds of immovable property on same day (i.e 12.06.2015) and personal savings, and therefore it cannot be considered as unexplained investment.

1. ADDITION OF Rs.72,85,550/- TOWARDS TIME DEPOSITS – INCORRECT AND DUPLICATIVE REPORTING; ALIMONY-LINKED FD; MISINTERPRETATION OF BANK DATA:

The addition of ₹72,85,550/- comprises time deposits made from traceable sources and includes duplicate reporting by the bank:

- a) ₹24,00,000/- was deposited on 12th June 2015 from property sale proceeds and personal savings;
- b) ₹23,05,750/- was deposited on 4th January 2016 from the premature closure of the earlier deposit on 12th June 2015, towards an alimony settlement;
- c) The balance reflects duplicate reporting by the bank, not fresh or unexplained investments.

2. ADDITION OF Rs.12,53,000/- TOWARDS CAPITAL GAINS – IGNORING INDEXED COST OF ACQUISITION AND CONSTRUCTION EXPENSES

The AO erred in taxing the entire sale consideration of ₹12,53,000/- as capital gains without allowing deduction of indexed cost of acquisition and construction. The property qualified as a long-term capital asset since Date of Purchase is 7th December 2001 and Date of Sale is 12th June 2015. The computation of capital gains is incorrect in law and on facts.

PRAYER

In light of the above grounds, the appellant humbly prays that:

- The additions made under sections 69A, 69, and 45 be deleted in full;
- The assessment be re-examined with proper consideration of submissions and facts;

9. We have heard the learned AR as well as the learned DR and carefully perused the impugned orders of the authorities below. The Assessing Officer has passed an ex-parte order and whereby made several additions including the salary income of the assessee. The assessee has explained the facts as under:

The appellant respectfully submits the following Statement of Facts in connection with the assessment proceedings for AY 2016–17, which resulted in several additions made by the Learned Assessing Officer (Ld. AO) under various sections of the Income-tax Act, 1961:

1. Background:

The appellant is an individual assessee residing at Rajahmundry, Andhra Pradesh. During the financial year 2015–16, the appellant sold a residential property and undertook a few banking transactions related to the sale proceeds. The assessment was completed u/s 144 of the Act due to lack of proper representation.

2. Addition of ₹48,82,767/- Alleged Cash Deposits (Section 69A):

The Ld. AO treated ₹48,82,767/- as unexplained cash deposits. However, this is based on erroneous duplication of a single cash deposit transaction of ₹24,00,000/- made on 12th June 2015 into the appellant's SBI account at Bhimavaram.

This amount included ₹12,53,000/- from sale of property and ₹11,47,000/- from family savings. The deposit was routed via another branch (Muvvalavanipalem) for convenience, and both branches independently reported the same transaction, resulting in double reporting. The appellant maintains only one bank account, and no separate transaction was undertaken.

3. Addition of ₹72,85,550/- – Time Deposits (Section 69):

The Ld. AO further added ₹72,85,550/- as unexplained investments, representing fixed deposits made from the above cash deposit. The FD was created on 12th June 2015 in the same bank account and was later prematurely closed on 4th January 2016 to facilitate a court-ordered alimony payment of ₹23,05,750/- to the estranged wife of the appellant's son. The AO also erroneously considered another FD at the Muvvalavanipalem branch, which is non-existent. The appellant has no account or FD at that branch. This again appears to be due to duplication in the bank's internal MIS reporting.

4. Addition of ₹12,53,000/- – Capital Gains (Section 45):

The entire sale consideration from the property sold was wrongly assessed as capital gains without granting deduction towards the indexed cost of acquisition and construction. The property was originally purchased on 7th December 2001, and construction costs were also incurred. The property qualifies as a long-term capital asset, and the benefit of indexation is statutorily allowable. The failure to allow this deduction resulted in an inflated and incorrect assessment of capital gain.

K. S. m' B. b. c.

5. Addition of ₹1,17,692/- – Salary Income:

The addition towards salary income received from Tata Steel BSL Limited has been accepted by the appellant. The amount was already reflected in Form 26AS, and the appellant agrees to its taxation under the head "Income from Salary."

6. Ex-Parte Assessment and Prayer for Opportunity:

The assessment was framed u/s 144 in absence of complete representation and non submission of documentary evidence. The appellant now wishes to furnish all supporting documents including bank statements, property documents, court decree, and FD breakup, to demonstrate that all transactions are fully explained and documented.

In view of the above facts, the appellant humbly prays that:

- Additions made under Sections 69A and 69 be deleted in full as the transactions stem from the sale of property and do not represent unexplained income.
- Capital gains be recomputed by allowing indexed cost of acquisition and construction.
- Tax be levied only on the lawful income and not on duplicative or misinterpreted transactions.

10. Thus, it is clear that the assessee has prima facie has made out a case that the Assessing Officer has made various duplicate additions of a single transactions. The learned CIT (A) has not decided the appeal of the assessee on merits but the same was dismissed on technicalities of delay of 10 days in filing the appeal. However considering the facts and circumstances of the case, at the outset we note that the assessee has explained the cause of delay of 10 days as recorded in para 4 of the order of the learned CIT (A) as under:

“4. Condonation of Delay:

I am residing in different address and the assessment order received to the different address. I am unable to know that the assessment order received to me. Recently I came to know that the assessment order received to me and immediately filing the appeal. I regret to delay and inconvenience in this regard. So please condone the delay of 10 days and accept the appeal and do the justice as per the provisions of the Income Tax Act”.

11. Thus, once the assessee has explained the cause of delay of 10 days in filing the appeal, the learned CIT (A) ought to have decided the appeal of the assessee on merit instead of dismissing the same by declining the condonation of delay. In the facts and circumstances of the case as discussed above and in the interest of justice, we condone the delay of 10 days in filing the appeal before the learned CIT (A).

12. Since the appeal of the assessee was not decided by the learned CIT (A) on merits, therefore, the impugned order of the learned CIT (A) is set aside and the matter is remanded to the record of the Assessing Officer for fresh adjudication after considering the relevant facts and details after giving an appropriate opportunity of hearing. We order accordingly.

13. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 17th September, 2025.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
--	---

Hyderabad, dated 17th September, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Suri Babu Krovvidi, H No 115-5-273 Sriram Colony, Konthamuru Kolamuru, Rajahmundry, East Godavari 533102 A.P
2	Income Tax Officer CR Building, Vijayawada A.P
3	Pr. CIT – Vijayawada
4	DR, ITAT Visakhapatnam Bench
5	Guard File

By Order