

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

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

**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 Nos. 43 & 44/VIZ/2025
(A.Ys.2015-16 & 2020-21)**

Datla Tirupathi Raju White House, North Extension Near Lions Cancer Hospital Visakhapatnam – 530002 Andhra Pradesh [PAN:ACGPD0393K]	v.	ACIT – Central Circle – 1 Income Tax Office Pratyakshakar Bhavan MVP Colony, Visakhapatnam – 530017 Andhra Pradesh
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Badicala Yadagiri, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	13.08.2025
घोषणा की तारीख/Date of Pronouncement	:	15.09.2025

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), Visakhapatnam – 3, [hereinafter in short "Ld.CIT(A)"] vide respective DIN & Order No. as stated below: -

ITA No.	DIN & Order No.	Dated
ITA No. 43/VIZ/2025	ITBA/APL/S/250/2024-25/1069762375(1)	18.10.2024
ITA No. 44/VIZ/2025	ITBA/APL/S/250/2024-25/1070030818(1)	29.10.2024

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.

3. Firstly, we take up the appeal in ITA No. 43/VIZ/2025 (A.Y. 2015-16) and brief facts are culled out therefrom.

ITA No. 43/VIZ/2025 (A.Y. 2015-16)

4. This appeal is filed by the assessee against the order of Ld. CIT(A) vide DIN & Order No. ITBA/APL/S/250/2024-25/1069762375(1) dated 18.10.2024 for the A.Y. 2015-16 arising out of order passed under section 153A r.w.s. 144 of the Income Tax Act, 1961 (in short ‘Act’) dated 29.09.2021.

5. At the outset, it is noticed from the appeal records that there is a delay of 23 days in filing appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. Authorised Representative [hereinafter “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: -

“1. Assessment in the case of the appellant for A.Y.2015-16 was completed on 29.09.2021 u/s 144 of the Act. The appellant preferred on

appeal before the learned Commissioner of Income Tax (Appeals) and the same was partly allowed vide order dt. 18.10.2024. As such, the appeal ought to have been filed on or before 31.11.2024. However, the appeal could be filed only on 23.01.2025 resulting in a delay of 23 days.

2. *Actually, the appellant had to go to the USA on some urgent week on 15.12.2024 and could return to India only on 13.01.2025. As such, the appellant could not pursue the filing of appeal during this period. As soon as the appellant returned from USA, he took necessary steps and the appeal was filed on 23.01.2025.*

3. *Thus, the delay of 23 days filing the appeal was due to reasons beyond the control of the appellant and was neither intentional nor deliberate. Hence, the appellant pass the hon'ble ITAT, Visakhapatnam Bench to kindly condone the delay of 23 days in filing the appeal and pass appropriate orders in the interest of rendering substantial justice.”*

6. 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 23 days. Therefore, we hereby condone the delay of 23 days in filing the appeal before the Tribunal and proceed to adjudicate the appeals on merits in the following paragraphs.

7. Brief facts of the case are that, assessee is an Executive Chairman of M/s.Vijayanagar Biotech Group and filed his original return of income for the A.Y. 2015-16 on 31.10.2015 admitting a total income of Rs.23,09,310/-. A search action under section 132 of the Act was conducted in the case of M/s.Vijayanagar Biotech Group cases on 10.01.2020 at the Registered office situated at Visakhapatnam. Consequent to centralisation of the case, notice under section 153A of the Act was issued on 26.02.2021. In response, assessee

filed his return of income on 26.08.2021 admitting a total income of Rs.22,55,560/-. However, it was noticed that assessee failed to e-verify the return either electronically or physically and hence Ld. AO has not taken cognisance to said return of income and therefore concluded that notice under section 143(2) of the Act could not be issued. Ld. AO thereafter proceeded to add an amount of Rs.45,58,500/- to the total income of the assessee based on the agreed amounts as per “agreement to sale” dated 07.09.2014 entered with the buyer Shri V. Anik Kumar.

8. On being aggrieved by the order of the Ld. AO, assessee filed an appeal before the Ld. CIT(A). The assessee also raised legal grounds regarding non-issuance of notice under section 143(2) of the Act and assessment order was issued without any Document Identification Number (DIN) and therefore assessment is not valid in law. However, Ld. CIT(A) observed that the DIN was properly communicated by the Ld. AO to the assessee and rejected the arguments of the assessee. With regard to non-issuance of notice under section 143(2) of the Act, Ld. CIT(A) observed that since the assessee did not file the return of income within the time stipulated in the notice issued under section 153A of the Act, he concluded that the Ld. AO has rightly treated that the assessee has not filed the return of income by placing reliance on Co-ordinate Bench of Delhi in the case of Rakesh Agarwal in ITA No. 2461/Del/2019,

dismissed the grounds raised by the assessee. Further, on merits Ld. CIT(A) upheld the addition made by the Assessing Officer amounting to Rs.45,58,500/-.

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

1. *The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.*

2. *The Learned Commissioner of Income Tax (Appeals) is not justified in holding that the assessment completed without issue of notice u/s 143(2) is not invalid.*

3. *The Learned Commissioner of Income Tax (Appeals) is not justified in holding that the assessment order issued without DIN is not invalid.*

4. *Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified sustaining the addition of Rs.45,58,500 made by the assessing officer towards alleged on-money on sale of flat.*

5. *Any other ground may be urged at the time of hearing."*

10. Ground Nos. 1 & 5 are general in nature and needs no adjudication.

11. Ground No.2 &3 relates to the non-issuance of notice under section 143(2) of the Act and issuance of assessment order without DIN respectively.

Ld.AR submitted that, assessee has e-verified the return on 23.09.2021 and hence the valid return of income was available for Ld. AO when the assessment order was passed on 29.09.2021 which is wrongly mentioned as 29.09.2019 in the assessment order. He therefore pleaded that assessment order is *void ab initio* and prayed for quashing the same. Further he also submitted that

assessment order does not contain DIN and on this count assessment order becomes invalid.

12. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the order of the lower authorities.

13. We have heard both the sides and perused the material available on record. These legal grounds were also raised by the assessee before Ld. CIT(A). The Ld.CIT(A) admitting the legal grounds found no merit in the arguments of the Ld.AR and thereby dismissed the legal grounds raised by the assessee. The Ld.CIT(A) in his order in Para No. 7.4 has observed that DIN was properly generated and communicated to the assessee by the Assessing Officer on 01.10.2021. Further, on the issue of non-issuance of notice under section 143(2) of the Act, the Ld. CIT(A) relied on the decision of the Co-ordinate Bench of Delhi in Rakesh Agarwal (Supra) wherein under similar facts and circumstances it was held that since no valid return was filed by the assessee there is no requirement for issuance of notice under section 143(2) of the Act. We are in agreement with the Ld. CIT(A) on the legal issues and we find no infirmity in the order of the Ld. CIT(A) and hence no interference is required on the legal issues vide Ground No.2 and 3 raised by the assessee. Accordingly, grounds raised by the assessee are dismissed.

14. With respect to Ground No. 4 with regard to the addition of Rs.45,58,500/-. Ld.AR submitted that even though the agreement of sale was entered by the assessee for Rs.1,17,16,500/-, however, the flat was sold for Rs.71,58,000/- only. The assessee has received an amount of Rs.71,58,000/- and not any other sum, he argued. He further submitted that the buyer after accepting the consideration of Rs.1,17,16,500/- later on found that Rs.71,58,000/- is in accordance to the prevailing market rate in that locality, and hence the buyer paid a Sum of Rs.71,58,000/- only. Therefore, the addition made by the AO is not justifiable and hence prayed for deletion of the same.

15. Ld. DR relied on the orders of the lower authorities.

16. We have heard both the sides and perused the material available on record. It is an admitted and undisputed fact that the assessee has entered into the “agreement to sale” with the buyer agreeing the consideration at Rs.1,17,16,500/- and by receiving Rs.25,00,000/- as cash on the date of agreement. We also find that the sale of agreement was signed by both the parties for an accepted consideration of Rs.1,17,16,500/-. Further, it was also found that the assessee has received cash of Rs.25,00,000/- on the date of agreement to sale and has also agreed and accepted to receive balance of Rs.90,21,650/- within 90 days from the execution of sale agreement or at the time of registration of sale deed whichever is earlier. No documentary evidences were produced before us regarding the return of cash received by the

assessee amounting to Rs.25,00,000/-. This fact was also accepted by the assessee in the sworn statement recorded under section 132(1) of the Act on 10.01.2020. Considering the above facts, Ld. CIT(A) has rightly adjudicated the issue by directing the Ld. AO to include the sum of Rs.45,58,500/- as short-term capital gains in the hands of the assessee. Accordingly, we find no reason to interfere with the order of the Ld. CIT(A) on this issue as the facts of the case could not be controverted by the Ld.AR. We therefore uphold the order of the Ld. CIT(A). Accordingly ground raised by the assessee is dismissed.

17. In the result, appeal of the assessee is dismissed.

ITA No. 44/VIZ/2025 (A.Y. 2020-21)

18. This appeal is filed by the assessee against the order of Ld. CIT(A) vide DIN & Order No. ITBA/APL/S/250/2024-25/1070030818(1)dated 29.10.2024 for the A.Y. 2020-21 arising out of order passed under section 143(3) of the Income Tax Act, 1961 (in short 'Act') dated 29.09.2021.

19. At the outset, it is noticed from the appeal record that there is a delay of 23 days in filing appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. Authorised Representative [hereinafter "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: -

“1. Assessment in the case of the appellant for A.Y.2020-2021 was completed on 29.09.2021 u/s 144 of the Act. The appellant preferred an appeal before the learned Commissioner of Income Tax (Appeals) and the same was partly allowed vide order dt.29.10.2024. As such, the appeal ought to have been filed on or before 31.12.2024. However, the appeal could be filed only on 23.01.2025 resulting in a delay of 23 days.

2. Actually, the appellant had to go to the USA on some urgent work on 15.12.2024 and could return to India only on 13.01.2025. As such, the appellant could not pursue the filing of appeal during this period. As soon as the appellant returned from USA, he took necessary steps and the appeal was filed on 23.01.2025.

Thus, the delay of 23 days filing the appeal was due to reasons beyond the control of the appellant and was neither intentional nor deliberate. Hence the appellant prays the hon'ble ITAT, Visakhapatnam Bench to kindly condone the delay of 23 days in filing the appeal and pass appropriate orders in the interest of rendering substantial justice.”

20. 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 23 days. Therefore, we hereby condone the delay of 23 days in the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

21. Brief facts of the case are that, assessee is an Executive Chairman of M/s.Vijayanagar Biotech Group and filed his return of income for the A.Y.2020-21 on 22.03.2021 admitting a total income of Rs.31,88,150/-. A search action under section 132 of the Act was conducted in the case of

M/s.Vijayanagar Biotech Group cases on 10.01.2020 at the Registered office situated at Visakhapatnam. In the impugned assessment year, it is relevant to the year of search and the assessee has filed his return of income on 22.03.2021. Subsequently, notice under section 143(2) of the Act was issued on 23.08.2021 and notice under section 142(1) was issued on 11.09.2021. In response, assessee furnished his reply on 23.09.2021 by furnishing the relevant information required along with evidences in support of his claims. In response to the show-cause notice, assessee submitted his reply regarding the investments in gold and silver jewellery. Ld. AO after considering the CBDT Circular 1916 dated 11.05.1994 found that the assessee had gold and silver jewellery amounting to Rs.27,29,450/- in excess of the limits prescribed above in the said circular. He therefore proceeded to add Rs.27,29,450/- to the total income of the assessee.

22. On being aggrieved by the order of the Ld. CIT(A), assessee filed an appeal before Ld. CIT(A). Assessee also raised additional ground regarding the issuance of assessment order without DIN along with the grounds on merits. Ld. CIT(A) while dismissing the legal ground also upheld the addition made by the Assessing Officer thereby dismissed the appeal of the assessee.

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

“1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The Learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.27,29,450 made by the assessing officer u/s 69A of the Act towards unexplained jewellery.

3. Without prejudice to the above the learned Commissioner of Income Tax (Appeals) is not justified in refusing to grant the benefit of telescoping against the addition of Rs.45,58,500 made in A.Y.2015-2016 towards on-money on sale of property.

4. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified sustaining the addition of Rs.45,58,500 made by the assessing officer towards alleged on-money on sale of flat.

5. Any other ground may be urged at the time of hearing.”

24. Ground Nos. 1 and 5 are general in nature and needs no adjudication.

25. Ground No. 2 is with respect to the sustaining of the addition of Rs.27,29,450/- and Ground Nos. 3 & 4 relates to the granting of telescoping benefit against the addition of Rs.45,58,000/- made in the A.Y. 2015-16. The Ld.AR submitted that since the addition of Rs.45,58,000/- was made in the A.Y.2015-16 towards on-money from the sale of property, the benefit of telescoping should be made available to the assessee during the A.Y. 2020-21 against the gold and silver jewellery amounting to Rs.27,29,450/-. He therefore pleaded that the addition made by the Ld. AO be deleted.

26. Per contra, Ld. DR relied on the orders of the lower authorities.

27. We have heard both the sides and perused the material available on record. It is an admitted fact that the value of jewellery and silver articles found

in the assessee's premises is valued at Rs.1,34,02,889/-. However, Ld. AO computed the excess at Rs.27,29,450/- by adding it to the total income of the assessee. It was the contention of the Ld. AO that the assessee could not provide valid documentary proof and also explain the sources for the purchase of jewellery. After giving credit to the quantities prescribed in the CBDT Circular, the Ld. AO considered excess jewellery amounting to Rs.27,29,450/- for which the assessee could not furnish valid purchase bills and neither filed wealth tax return. The assessee also neither produced any valid documentary evidences for the excess jewellery even before us. In the absence of proving the source for the jewellery where onus is fully on the assessee to explain the sources for the purchase of jewellery, the failure to do so by the assessee to provide any documentary evidences, we are of the considered view that the addition made by the Assessing Officer is justified and we do not find any infirmity in the order of the Ld. CIT(A) in sustaining the same. Accordingly, Ground No.2 raised by the assessee is dismissed.

28. Further, on the issue of the telescoping of addition made during the A.Y.2015-16 for the addition made during the A.Y. 2020-21 could not be accepted in the absence of proving the nexus by the assessee. We therefore reject the Ground Nos. 3 & 4 raised by the assessee on seeking the telescoping of the benefit of on-money seized during the A.Y.2015-16 to the cost of gold

and silver jewellery during the impugned assessment year and therefore dismiss the ground raised by the assessee.

29. In the result, appeal of the assessee is dismissed.

30. To sum-up, both the appeals of the assessee are dismissed.

Order pronounced in the open court on 15th September, 2025.

Sd/-
(दुव्वूरु आर एल रेड्डी)
(DUVVURU RL REDDY)
उपाध्यक्ष/ VICE PRESIDENT

Dated: 15.09.2025
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 : **Datla Tirupathi Raju**
White House, North Extension
Near Lions Cancer Hospital
Visakhapatnam – 530002
Andhra Pradesh
2. राजस्व/ The Revenue : **ACIT – Central Circle – 1**
Income Tax Office
Pratyakshakar bhavan
MVP Colony, Visakhapatnam – 530017
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