

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

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 554/Hyd/2025
(निर्धारण वर्ष/ Assessment Year: 2010-11)

Vidyavathi Paluru, Hyderabad. PAN: AXNPP0378E	VS.	Income Tax Officer, Ward-11(1), Hyderabad.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

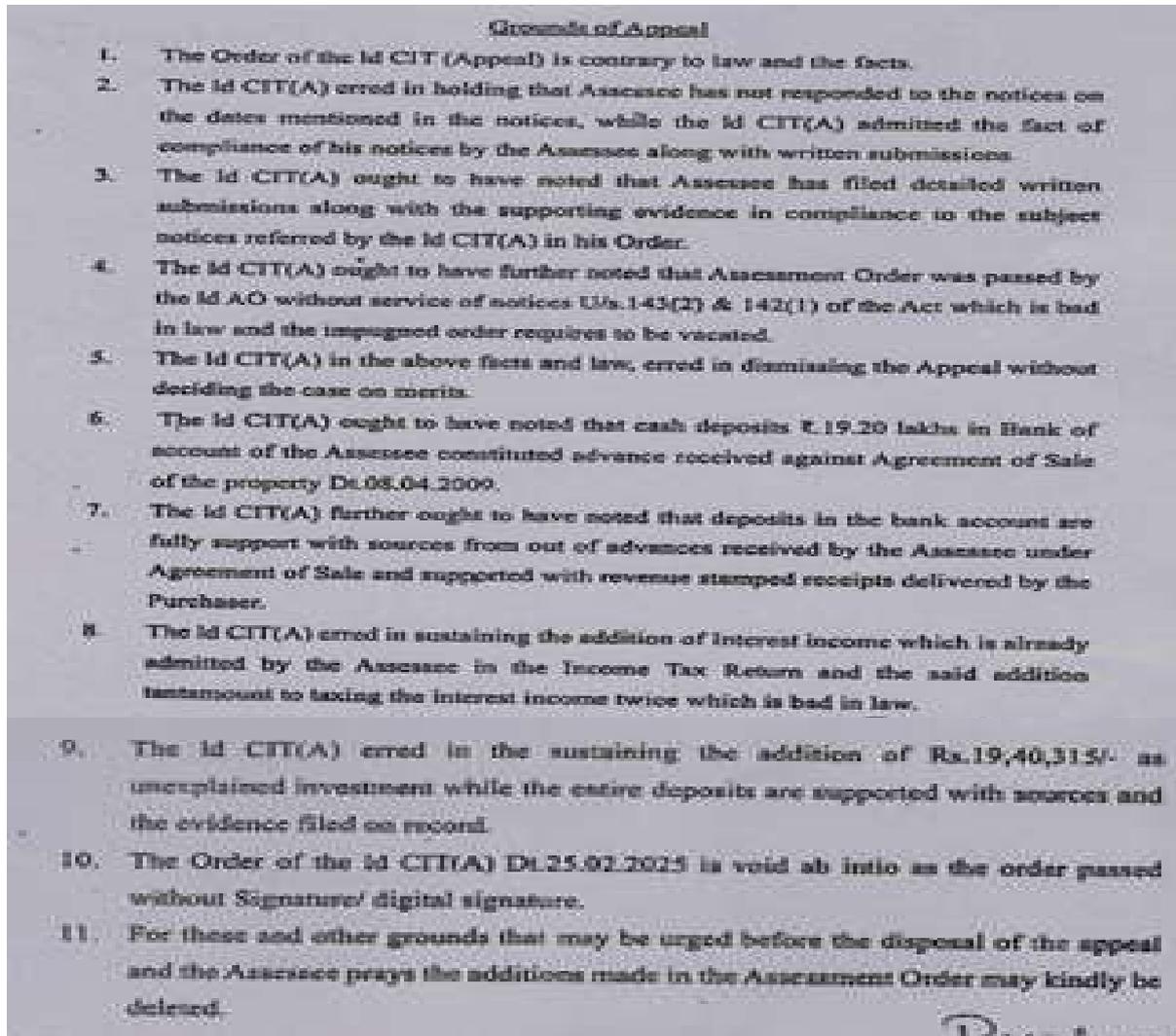
करदाताका प्रतिनिधित्व/ Assessee Represented by	:	Sri A. Harish, Advocate
राजस्वका प्रतिनिधित्व/ Department Represented by	:	Ms. V. Koteswaramma, Sr. AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	25/09/2025
घोषणा की तारीख/ Date of Pronouncement	:	30/09/2025

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the Additional/Joint Commissioner of Income-Tax (Appeals), Ranchi, dated 25/02/2025, which in turn arises from the order passed by the Assessing Officer under Section 144 of the Income Tax Act, 1961 (for short, "Act"), dated 25/03/2013 for A.Y. 2010-11.

2. The assessee has assailed the impugned order on the following grounds of appeal before us:



3. Succinctly stated, the assessee had filed her return of income for the AY 2010-11, dated 25/03/2011, declaring an income of Rs. 62,750/-. The return of income filed by the assessee was processed as such U/s. 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny assessment and notices U/s. 143(2) & 142(1) of the Act,

dated 30/08/2011 and 18/06/2012 are stated to have been issued to the assessee.

4. Ostensibly, as the assessee had failed to comply to the aforesaid notices, therefore, the Ld. AO, in the absence of the requisite details as were called for by him was constrained to proceed with and frame the assessment to the best of his judgment U/s. 144 of the Act, dated 25/03/2013, wherein he held the cash deposits of Rs. 19,40,315/- made by the assessee in his bank account during the subject year as having been sourced out of his unexplained money U/s. 69A of the Act. Also, the unaccounted interest income on the aforesaid bank account of Rs.20,000/- was also added to the assessee's returned income. Accordingly, the AO vide his order passed U/s. 144 of the Act dated 25/03/2013 determined the income of the assessee at Rs. 20,03,065/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A), but without success. For the sake of clarity, the observations of the CIT(A) are culled out as under:

8. Decision**9. Discussion on non – responsiveness of appellant: -**

5.1. Thus, it may be seen from the table given above that the appellant had been given ample opportunities by way of issuing notices as detailed above but the appellant had neither responded to the notices nor filed any written submission in compliance to such notices issued.

9.2. It is well settled dictum^o of law "**VIGILENTIBUS, NO DORMENTIBUS, JURA SUBVENIUNT**" which means law will help only those who are vigilant Law will not assist those who are careless of his/her right. In order to claim once right she/he must be watchful of his/her rights Only those persons, who are watchful and careful of using his/her rights, are eligible to the benefits of law. Law confers rights on persons who are vigilant of their rights. In this connection, the various Judicious

decision of the Hon'ble Courts may be cited. In the case of **Tukojirao Holkar vs CIT (223 ITR 480)** Hon'ble M. P. High court held that, "If the party, at whose instance the reference is made, fails to appear at the hearing, or fails in taking steps for preparation of the paper books so as to enable hearing of the reference, the court is not bound to answer the reference. "Similarly, Hon'ble Punjab & Haryana High Court in the case of **New Dewan Oil Mills Vs, CIT** reported in **(2008) 2961TR495 (P&H)** had returned the reference unanswered, since the assessee remained absent and there was no assistance from the assessee. In the case of **CIT vs B.N. Bhattacharya. (118 ITR 461) (Pages 477,478)**, the Hon'ble Supreme Court held that the appeal does not mean, mere filing of the memo of the appeal but effectively pursuing the same". The Hon'ble Delhi High Court, in the case of **CIT vs Gold Leaf Capital Corporation Ltd. on 02.09.2011 in ITA No. 798 of 2009** held that a negligent appellant should not be given many opportunities just because the quantum of amount involved is high, Necessary course of action is to draw adverse inference, otherwise it would amount to giving premium to the appellant for this negligence. When the appellant is non – cooperative, it can safely be concluded that the appellant did not want to adduce evidence as it would expose falsity and non-genuineness of his claim. The Hon'ble ITAT Delhi in the case of **Whirlpool India Ltd vs DCIT (ITA No. 2006/Del/2011 dated 19.12.2021)** has dismissed the appeal for non-attending hearing inferring that the appellant is not effectively pursuing the appeal.

9.3 In this regard, the decision of the Hon'ble High Court Mumbai in the case of **M/S Chemipol vs Union of India, Central Excise Appeal No. 62 of 2009** may further be referred to wherein the Hon'ble Court clearly held that every court, judicial Body or Authority, which has a duty to decide a case between two parties, inherently possesses the power to dismiss the case in default. Relevant extract of the decision rendered by Hon'ble High Court at Mumbai in the said case is extracted below: -

"(i)-----

(ii) While not inclined to depart from the view taken by the two High Courts, reference must be made to **Sunderlal vs. Nandramdas AIR 1958 MP 260**, where it was observed that though the act does not give any power of dismissal, it is axiomatic that no court or tribunal is supposed to continue a No proceeding before it when the party who has moved it has not appeared nor cared to remain present. The dismissal therefore; duty is an inherent power, which every tribunal possesses. This was power approved in **Dr. P. Nallia Thampy vs Shankar (1984(Supp) rence SCC63)**. In **New**

India Assurance Ns. Srinivasan (2000) 3 SCC 242, it was held that every Court or judicial body or authority, which has duty to decide a lies between two parties, inherently possesses the power to dismiss a case in default. Where a case is called up for hearing and the party is not present, court or judicial or Quasi-judicial Body is under no obligation to keep the matter pending before it or to pursue the matter on document, thoroughly discussing the issues involved and the reasons behind rejecting the appellant's contentions.

It seen from record the earlier submission made by the appellant is not supported by any evidence. Since, the assessee has never submitted any details and written submission in-spite of issue of various notices issued by this office, the appeal is decided based on the records available on record and the facts and ground of appeal submitted by the assessee in Form 35.

Hence, on merits also, the appellant has no case. The appellant, has the challenged the addition made, without submitting any documentary evidences or counter arguments in support of its claims. Mere claiming that the AO erred in making the additions does not give an edge to the appellant. Keeping in view all the stated facts and discussions, I find no reason in altering the additions made by the AO. In view of the above facts, merit of the case, non – responsive nature of the assessee and failure to carry out its responsibility as an appellant, Thus, I firmly uphold the AO's additions to the appellant's income and dismiss their appeal with unwavering resolve.

10. For statistical purpose, the appeal is summarily and unceremoniously dismissed, reflecting the appellant's complete lack of accountability and sincerity in the fact of due process.

11. In the result, appeal is dismissed.

6. The assessee being aggrieved has carried the matter in appeal before us.

7. We have heard the Learned Representatives of both the parties, perused the orders of the lower authorities and material available on record.

8. Sri A. Harish, Advocate, Learned Authorized Representative for short "Ld. AR") for the assessee, at the threshold of the hearing of the appeal assailed the validity of the jurisdiction that was assumed by the AO for framing the impugned assessment vide his order passed U/s. 144 of the Act, dated 25/03/2013. Elaborating on his contention, the Ld. AR submitted that as the AO had at no stage served any notice U/s. 143(2) of the Act upon the assessee, therefore, he had wrongly assumed jurisdiction and framed the assessment. The Ld. AR to buttress his aforesaid submission had drawn our attention to the assessment order, and submitted, that the AO had though observed that notices U/s. 143(2) and U/s. 142(1) of the Act, dated 30/08/2011 and 18/06/2012 were issued to the assessee, but he had nowhere stated that the same were duly served upon him with the stipulated time period.

9. Apart from that, the Ld. AR submitted that the CIT(A) had grossly erred in law and facts of the case in summarily dismissing the appeal filed by the assessee. Elaborating on his contention, the Ld. AR submitted that the hearing of the appeal was fixed by the CIT(A) on three occasions i.e., on 19/01/2024; 19/02/2024 and 23/01/2024. The Ld. AR submitted that on the first date i.e., on 19/01/2024, the assessee had filed an application seeking adjournment. Thereafter, the assessee had on 19/02/2024 further filed/uploaded his written submissions, affidavit,

agreement of sale dated 08/04/2009, revenue stamped receipts dated 08/04/2009 and 07/09/2009 issued to the purchaser viz., Mr. M. Prabhakar Reddy etc., Page 2 to 3 of APB. Apart from that, the assessee on the next date of hearing had further filed/uploaded his written submissions along with supporting documents on 20/01/2025, Page-4 of the APB. The Ld. AR submitted that though it is a matter of fact borne from the record that the assessee had filed his written submissions along with documentary evidence, affidavit etc., before the CIT(A), but the latter had based on his perverse observations dismissed the appeal filed by the assessee for the reason that he had neither responded to the notices nor filed any written submissions in compliance to the same. The Ld. AR to support his aforesaid contention had taken us through Para 5.1 - Page 6 of the CIT(A)'s order. The Ld. AR submitted that as the assessee has been visited with a perverse order of the CIT(A), which clearly militates against the facts discernible from the record, therefore, the order so passed by him cannot be sustained and is liable to be set-aside.

10. Alternatively, the Ld. AR submitted that as the AO in the present case had failed to serve upon the assessee a notice U/s. 143(2) of the Act, which was the very foundation for valid assumption of jurisdiction for framing the assessment, therefore, the assessment on the said count itself was liable to be struck down.

11. Per contra, Ms. V. Koteswaramma, Learned Departmental Representative (for short “Ld. Sr. AR”) for the assessee relied upon the orders of the lower authorities.

12. The Ld. D.R, on being queried, that now when the assessee on the various dates on which the hearing of the appeal was fixed before the CIT(A) had filed his written submissions along with supporting documentary evidence, then on what basis he had dismissed the assessee’s appeal for the reason that the assessee had neither responded to the notices nor filed any written submissions, the Ld. Sr. DR failed to come forth with any reply.

13. We have thoughtfully considered the facts involved in the present case in the backdrop of the contentions advanced by the Learned Authorized Representatives of both the parties.

14. Admittedly, as it is a matter of fact borne from the record, that the assessee had in compliance with the notices intimating the fixation of the appeal before the CIT(A) i.e., on 19/02/2024 and 23/01/2025, filed his written submissions, supporting documentary evidence, affidavit etc., on 19/02/2024, 20/02/2024 and 21/01/2025, Pages 2 to 4 of the APB, therefore, we find it incomprehensible that on what basis the CIT(A) had

observed that the assessee, despite having been afforded multiple opportunities, neither responded to the notices nor filed any written submissions. We are of the firm conviction that in the backdrop of the facts discernible from the record, the observation of the CIT(A), which had formed the foundation for the dismissal of the present appeal, suffers from a grave infirmity. As the assessee had furnished the written submissions, affidavit, supporting documentary evidence etc. in the course of the proceedings before the CIT(A), therefore, there was no justification for him to have discarded the said documents and dismissed the appeal based on his wrong observations. As the order passed by the CIT(A) suffers from a grave infirmity, which by no means but falls within the meaning of blatant violation of the basic principles of natural justice, i.e., condemning the assessee appellant unheard, i.e., without considering his submissions and supporting documentary evidence, therefore, we are unable to persuade ourselves to subscribe to the same. Accordingly, we herein set-aside the order passed by the CIT(A) and restore the matter to his file with a direction to re-decide the appeal based on a speaking and reasoned order after taking due cognizance of the material available on record. Needless to say, the CIT(A) shall, in the course of the set-aside proceedings, afford a reasonable opportunity of being heard to the assessee, who shall remain at liberty to substantiate

his contentions based on any further documentary evidence, as per the extant law.

15. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced U/Rule 34(4) of the Appellate Tribunal Rules, 1963 on 30th September, 2025.

Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखासदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER
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Hyderabad, dated 30.09.2025.

OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Vidyavathi Paluru, Flat No. 104, Tulip Tower, L & T Serene County, Near Urdu University, Gachibowli, Serilingampalli Mandal, Telangana-500032.
2.	राजस्व/ The Revenue	:	Income Tax Office, Ward-11(1), Range-11, Signature Towers, Kondapur, Hyderabad, Telangana-500084.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad