

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

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.561/Hyd/2025**

निर्धारण वर्ष / Assessment Year 2017-2018

Deepak Singhal, Hyderabad – 500 027. Telangana. PAN AVVPS0498L	vs.	The Income Tax Officer, Ward-4(1), Hyderabad. Telangana.
(Appellant)		(Respondent)

निर्धारिती द्वारा / Assessee by:	Smt. S. Sandhya, Advocate
राजस्व द्वारा / Revenue by::	Dr. Sachin Kumar, Sr. AR

सुनवाई की तारीख / Date of hearing:	07.10.2025
घोषणा की तारीख / Pronouncement:	07.10.2025

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the assessee is directed against the order dated 02.02.2024 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC], Delhi, for the assessment year 2017-2018.

2. At the outset, there is a delay of 332 days in filing the present appeal before the Tribunal. The assessee has filed petition for condonation of delay, which is also supported by the affidavit of the assessee. Learned Authorised Representation of the Assessee Smt. S. Sandhya, Advocate, has submitted that the assessee is derived income from other sources primarily through Commissions based activities such as cheque discounting and acting as an Agent. The assessee was not aware of about the impugned order passed by the learned CIT(A) due to the reason that the service of the notice issued by the learned CIT(A) as well as the impugned order was not through physical delivery of the impugned order and, therefore, in the absence of proper service of the impugned order, the assessee could not take steps to file the present appeal within the period of limitation. She has further contended that the assessee is an uneducated person and not well-versed with the computer operations. Therefore, he did not comply with the notice and orders within the time. Thus, the learned AR has submitted that the assessment order as well as the

impugned appellate order were passed ex-parte, when there was no compliance on behalf of the assessee due to no knowledge of the proceedings going before the Assessing Officer as well as before the learned CIT(A). The learned AR has submitted that the Assessing Officer has made the addition of the entire deposit in the bank account without considering the fact that the assessee is earning only commission income which has already been declared in the return of income. Thus, the learned AR has submitted that if the delay in filing of the appeal is not condoned, it will result a gross injustice to the assessee as the entire deposit in the bank account has been assessed to tax by the Assessing Officer. She has further submitted that the learned CIT(A) has dismissed the appeal as not maintainable being barred by limitation. She has pointed-out that the assessee has explained the delay in filing the appeal before the learned CIT(A) as clearly available in Form-35 filed before the learned CIT(A). However, the learned CIT(A) has declined to condone the delay of 54 days in filing the appeal before him and dismissed the appeal of

the assessee *in limine*. Thus, the learned AR has submitted that the delay in filing the appeal before the Tribunal as well as before the learned CIT(A) may be condoned in the interest of substantial justice.

3. Learned Sr. DR for the Revenue Dr. Sachin Kumar, on the other hand, has strongly opposed to the condonation of delay and submitted that the delay of 332 days in filing the appeal before the Tribunal is an inordinate delay which has not been explained by the assessee with 'sufficient cause'. Further the assessee also failed to explain the cause of delay in filing the appeal before the learned CIT(A). Thus, the learned Sr. DR submitted that the conduct of the assessee shows a gross negligence towards the Income Tax proceedings.

4. We have considered the rival submissions as well as the reasons explained by the assessee in the petition filed for condonation of delay which is supported by the affidavit of the assessee. The assessee has given the reasons that notice issued by the learned CIT(A) as well as the impugned

order was not sent to the assessee physically and, therefore, there was no physical service of the notice as well as the impugned order on the assessee, which resulted the delay in filing the present appeal before the Tribunal, as the assessee was not aware about the impugned order passed by the learned CIT(A). This fact is not in dispute that the impugned order was not served on the assessee physically, but, it was only sent on the email-ID given in Form-35 of the Authorised Representative of the Assessee. We further note that the assessment order was passed u/sec.144 of the Income Tax Act, 1961 whereby, the Assessing Officer has assessed the total deposits in the bank account of the assessee to tax, whereas, the assessee has claimed that he is deriving the income from other sources primarily through commissions based activities and, therefore, only the earning of commission on the amount deposited in the bank account is claimed as the income of the assessee. The learned CIT(A) has dismissed the appeal of the assessee on the ground of delay and then, confirmed the additions made by the Assessing Officer. Therefore, it is clear that the

appeal of the assessee was dismissed *in limine* and not decided on merits. Having considered the peculiar facts and circumstances of the case and in the interest of justice, we are taking a lenient view to consider the 'sufficient/ reasonable cause' for the delay in filing the present appeal. Accordingly, the delay of 332 days in filing the present appeal before the Tribunal as well as the delay of 54 days in filing the appeal before the learned CIT(A) are condoned, subject to cost of Rs.5000/- [Rs. Five Thousand Only] to be paid to Prime Minister's Relief Fund within a period of one month from the date of this Order.

5. The assessee has raised the following grounds in the instant appeal :

1. *"The order of the learned CIT (A) is erroneous both on facts and in law;*
2. *The learned CIT (A) erred in not condoning the delay of 54 days inspite of the fact that the appellant has submitted the reasons for the delay;*
3. *The learned CIT (A) ought to have considered the grounds on merit;*
4. *The learned CIT (A) ought to have deleted the addition made of Rs.1,04,96,300/- in view of the facts and circumstances of the case;*

5. *The learned CIT (A) ought to have decided the grounds on merit without dismissing the grounds in limini;*
6. *Any other ground/grounds that may be urged at the time of hearing.”*

6. We have heard the learned Authorised Representative for the Assessee and the learned Sr. AR for the Revenue and considered the relevant material on record. Undisputedly, the assessment was made ex-parte and the Assessing Officer has added the entire deposits in the bank account as income of the assessee for want of any explanation or supporting evidence filed by the assessee. Further, the learned CIT(A) has also dismissed the appeal of the assessee *in limine* and not decided the issue on merits. Now, the assessee has filed the additional evidence along with petition under Rule 46A of IT Rules, 1962 in support of the claim to show that the deposits made in the bank account are nothing, but are transactions, on which, the assessee has earned only commission income. There were deposits as well as corresponding transfers through RTGS to show that the assessee is acting only as an Agent and

earning commission income. Therefore, in the facts and circumstances of the case, 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 proper verification and examination of the additional evidences filed by the assessee in support of the claim. Needless to say, the assessee shall be given a fair opportunity of hearing before passing the assessment order.

7. In the result, appeal of the Assessee allowed for statistical purposes.

Order pronounced in the open Court on conclusion of hearing i.e., on 07th October, 2025.

Sd/-
[MADHUSUDAN SAWDIA]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 07th October, 2025

VBP

Copy to :

1.	Deepak Singhal, 3-3-83, Flat No.502, Silver Oak, Chappal Bazar, Hyderabad – 500 027. Telangana.
2.	The Income Tax Officer, Ward-4(1), Hyderabad.
3.	Pr. CIT, Hyderabad.
4.	DR, ITAT “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER,

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