

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 Nos.1157 & 1158/Hyd./2025**

निर्धारण वर्ष / **Assessment Year 2012-2013**

Kiran Reddy Muddasani, Hyderabad – 500 035. Telangana. PAN BFTPM6705H	vs.	The Income Tax Officer, Ward-9(3), Hyderabad – 500 004. Telangana.
(Appellant)		(Respondent)

निर्धारिती द्वारा / Assessee by:	Sri P. Vinod, Advocate
राजस्व द्वारा / Revenue by::	Dr. Sachin Kumar, Sr. AR

सुनवाई की तारीख / Date of hearing:	15.10.2025
घोषणा की तारीख / Pronouncement:	17.10.2025

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

These two appeals ITA Nos.1157 & 1158/Hyd./2025 by the Assessee are directed against the two separate orders of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC"], Delhi, both dated 26.05.2025 arising from assessment order passed u/sec.147 r.w.s.144 of the Income

Tax Act, 1961 and penalty order passed u/sec.271(1)(c) of the Income Tax Act, 1961 [in short "the Act"], respectively, for the assessment year 2012-2013.

2. The assessee has raised the following grounds in the quantum appeal ITA.No.1157/Hyd./2025 as under :

1. *“On the facts and in the circumstances of the case, the order of the Id. CIT(A) is erroneous and unsustainable in law apart from being passed in gross violation of principles of natural justice.*
2. *Without prejudice, the Id. CIT(A) erred in dismissing the appeal of the appellant as infructuous on the ground that assessment order is passed with Old PAN, and the appeal is filed with New PAN.*
3. *The Id. CIT(A) erred in dismissing the appeal without putting the appellant on notice about the defect. The Id. CIT(A) further erred in dismissing the appeal as infructuous after filing written submissions, calling for remand report from AO, and reply to remand report filed by Appellant on merits. The Id. CIT(A) ought to have given opportunity to the Appellant to explain the legal position.*
4. *The Id. CIT(A) failed to appreciate that the appellant was issued with NEW PAN in place of OLD PAN, and that Appellant is filing return of incomes regularly on the NEW PAN since asst. year 2009-10 onwards.*

For these and other grounds that may be urged with the leave of the Hon'ble ITAT, it is prayed that the appeal may be allowed.”

3. The assessee has raised the following grounds in penalty appeal ITA.No.1158/Hyd./2025 :

1. *“On the facts and in the circumstances of the case, the order of the ld. CIT(A) is erroneous and unsustainable in law apart from being passed in gross violation of principles of natural justice.*
2. *Without prejudice, the ld. CIT(A) erred in dismissing the appeal of the appellant as infructuous on the ground that assessment order is passed with Old PAN, and the appeal is filed with New PAN.*
3. *The ld. CIT(A) erred in dismissing the appeal without putting the appellant on notice about the defect. The Id. CIT(A) ought to have given opportunity to the Appellant to explain the legal position.*
4. *The ld. CIT(A) failed to appreciate that the appellant was issued with NEW PAN in place of OLD PAN, and that Appellant is filing return of incomes regularly on the NEW PAN since asst. year 2009-10 onwards.*

For these and other grounds that may be urged with the leave of the Hon'ble ITAT, it is prayed that the appeal may be allowed.

4. In the quantum appeal [ITA.No.1157/Hyd./2025], the learned AR of the Assessee submitted that the assessee is an individual deriving income from catering business and also filed the return of income for the year under consideration declaring total income of Rs.2,20,860/- after claiming deductions under Chapter-VIA. The return of income was filed by the assessee under PAN :

BFTPM6705H. The learned AR has submitted that the assessee was also having a old PAN : AQOPK2022J, however, the same was lost by the assessee. Thereafter, the assessee applied for a new PAN which was allotted by the Department. He has pointed-out that the assessee has been filing the return of income with new PAN for the last many assessment years i.e., w.e.f. assessment year 2009-2010 onwards. The Assessing Officer issued notice u/sec.148 of the Act for initiating re-assessment proceedings in respect of the old PAN which was not in use of the assessee after the new PAN allotted and thereafter, passed the assessment order u/sec.147 r.w.s.14 whereby the additions were made by the Assessing Officer in respect of the deposit in the bank account of the assessee having old PAN AQOPK2022J. The learned AR has submitted that the assessee challenged the action of the Assessing Officer before the learned CIT(A) and submitted that the assessee has already filed the return of income and declared turnover of Rs.38,64,743/- and the transactions in the bank account of the assessee with HDFC bank are duly recorded in the books of accounts of the

assessee and part of the turnover. The Assessing Officer has made addition in the re-assessment proceedings in the old PAN by taking only the deposit side of the bank without considering the withdrawal from the said bank throughout the year. The learned AR has submitted that the assessee is a sub-contractor to Mid West Caterers Pvt. Ltd., which is one of the contractors to Indian Railways for supply of food on-board in Trains going from Hyderabad to Assam, Patna etc., and back to Hyderabad. All the sales of the assessee were cash sales and for safety reason the cash was deposited in the bank account of the assessee at Gauhati, Patna and Hyderabad. The assessee was withdrawing regularly from the bank account for the expenses relating to the business of the assessee like purchases etc., and, therefore, the turnover declared by the assessee includes all the transactions of the deposit in the bank account. The learned AR has further submitted that the learned CIT(A) has dismissed the appeal filed by the assessee against the assessment order on the technical ground that the assessment order is passed by the Assessing Officer under

different PAN, whereas the appeal was filed by the assessee under a different PAN. Thus, he has submitted that the impugned order of the learned CIT(A) may be set-aside and the matter may be remanded to the record of the Assessing Officer to verify whether the deposits made in the bank account of the assessee with the HDFC bank are already recorded in the books of accounts of the assessee and part of the turnover/sales being source of the said deposit. In support of his contention, he has relied upon the decision of Coordinate Bench of this Tribunal in the case of **Lova Impex Private Limited, Hyderabad vs., ITO, Ward-15(1), Hyderabad in ITA.Nos.247 to 252/Hyd./2025, order dated 19.05.2025.**

5. On the other hand, learned DR for the Revenue has submitted that the assessee is illegally keeping two PAN numbers and one of it is linked with the bank account and another is used for filing the return of income. Therefore, the Assessing Officer after getting the information of huge amount of cash deposited in the bank account, has reopened the assessment by issuing notice u/sec.148 of the

Act. He has further submitted that during the course of assessment proceedings, the assessee has failed to submit any explanation or response to the notice issued by the Assessing Officer as well as supporting evidence to explain the source of the deposit in the bank account. Thus, learned DR has submitted that the Assessing Officer has rightly made the addition by taking the deposits in the bank account as unexplained money of the assessee u/sec.69A of the Income Tax Act, 1961. He has relied upon the orders of the authorities below.

6. We have considered the rival submissions as well as relevant material on record. The Assessing Officer has reopened the assessment on the basis of information that the assessee has maintained a savings bank account with HDFC Bank, Chaitanyapuri Branch, Hyderabad wherein the assessee has deposited a sum of Rs.85,31,756/- during the financial year 2011-2012 relevant to the assessment year under consideration. The said bank account was linked with the old PAN AQOPK2022J of the assessee. Since, there was no response on behalf of the assessee to the notice issued

by the Assessing Officer, therefore, the Assessing Officer passed the best Judgment assessment order u/sec.144 r.w.s.147 of the Income Tax Act, 1961, whereby the deposit in the bank account was assessed as unexplained money u/sec.69A of the Income Tax Act, 1961. Before the learned CIT(A), the assessee explained that the assessee has been regularly filing the return of income under new PAN i.e., BFTPM6705H and also declaring the turnover from the business of sub-contract of catering to the Railways. However, the learned CIT(A) has dismissed the appeal of the assessee on the ground of multiple PAN which is impressible under the provisions of the Income Tax Act in para-2 of the impugned order as under :

“2. At the threshold, the appellant contends that PAN AQOPK2022J was the "old" PAN allotted to him, which was reportedly lost, following which a new PAN, namely BFTPM6705H, was obtained. In this regard, the AO is directed to take necessary action as per the provisions of Section 2728 of the Act as the appellant has violated the provisions of Section 139A(7) of the Act.

It has been further submitted that the appellant has since been regularly filing income tax returns under the new PAN, copies of which for AYs 2009-10 to 2011-12 have been annexed as part of the appeal. On this basis, the appellant seeks to justify the

maintainability of the present appeal filed under the new PAN-BFTPM6705H, despite the fact that the assessment under challenge was carried out under the old PAN-AQOPK2022J,

The above submissions have been carefully considered and found to be devoid of merits. In this regard, it is apposite to mention here that it is a settled legal and procedural position that an appeal must be filed under the same PAN on which the assessment has been made. The present appeal suffers from a fundamental jurisdictional defect, in as much as, the PAN under which the appeal is filed, BFTPM6705H, is distinct and unrelated to the PAN AQOPK2022J under which the assessment was framed. There is nothing on record, to establish that the two PANS have been officially linked, merged, or substituted in the records. In the absence of such substantiation, this forum has no basis to assume that the appellant under PAN BFTPM6705H is the same appellant against whom the assessment was passed under PAN AQOPK2022J.

It is pertinent to note that holding multiple PANs is impermissible under the provisions of the Act and may itself constitute a contravention under section 139A(7) and attract penalty under section 2728. It is the duty of the appellant to ensure that any change, replacement, or cancellation of PAN Is duly updated and reflected in the Department's records through proper Intimation and approval. Mere production of ITRs filed under a new PAN does not establish the legitimacy of filing an appeal against an order passed on a separate, unlinked PAN.

In light of the foregoing, the present appeal is rendered defective and is, therefore, liable to be dismissed. The appeal is accordingly dismissed as infructuous, without entering into the merits of the case.”

7. We find that though the old PAN was linked with the bank account of the assessee, however, it is also a fact of the matter that the assessee filed the return of income for the year under consideration as well as for the preceding assessment years right from 2009-2010 onwards under the new PAN i.e., BFTPM6705H. For the year under consideration the assessee has declared the turnover of Rs.38,64,743/-, whereas the total deposits during the year under consideration in the bank account of the assessee was found to be Rs.85,31,756/-. Therefore, the claim of the assessee that the deposits in the bank account of the assessee is business receipts, out of which, the assessee has already declared the turnover can't be denied without verification of the relevant record and correctness of the claim. Since, the assessment order was passed ex-parte u/sec.144 r.w.s.147 of the Income Tax Act, 1961 and the learned CIT(A) has also not decided the appeal of the assessee on merits, but, dismissed the same on technical ground of holding two PANs and assessment order is passed under the different PAN, whereas, the appeal was filed by

the assessee under different PAN. We further note that the Coordinate Bench of this Tribunal in the case of **Lova Impex Private Limited, Hyderabad vs., ITO, Ward-15(1), Hyderabad (supra)**, while considering an identical issue of holding more than one PAN by the assessee has observed as under :

“6. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that, the appellant company has been allotted PAN AABFL2747E in the status of ‘Firm’, although, the appellant company is a Private Limited Company incorporated under the Companies Act, 1956. It is also not in dispute that, the appellant company has surrendered the old PAN and has obtained the new PAN from assessment year 2007-2008 which is evident from PAN card issued by the Department by new PAN AAACL8515G. Further, it is also not in dispute that, the appellant company has filed its return of income right from assessment year 2007-2008 under new PAN in the status of ‘Company’ and the Department has assessed the appellant as a company, which is evident from the assessment order passed by the Assessing Officer for the assessment years 2015-2016 and 2017-2018 where the Assessing Officer has assessed the appellant company in the status of a ‘Company’ under PAN AAACL8515G. Therefore, the impugned assessment order passed by the Assessing Officer under old PAN AABFL2747E needs to be examined in light of facts brought on record to ascertain whether it is duplicate assessment or the

transactions reported in the said PAN recorded in the regular books of accounts of the appellant company reported in the relevant bank statement filed for the assessment years 2015-2016 and 2017-2018. Going by the evidences placed on record, including relevant assessment order passed by the Assessing Officer for the assessment year 2016-2017 u/sec.148A(d) of the Act dated 30.03.2023, it is an undisputed fact that, there are two Pan nos. in the name of the appellant company i.e., one in the status of 'Firm' and the other in the status of 'Company'. The Assessing Officer after considering the relevant facts and also evidences placed by the appellant company has accepted the fact that, there is a duplicate PAN in the status of 'Firm' and transactions reported in the old PAN no. are already considered by the appellant company in the new PAN and, therefore, there is no need of fresh assessment. A similar order has been passed for the assessment year 2018-2019 where the Assessing Officer has accepted the argument of the appellant company in light of two PAN nos. and passed Rs.NIL assessment order without making any additions towards transactions reported under old PAN. From the above, it is undisputedly clear that, there are two PAN numbers in the name of the appellant company i.e., one in the status of 'Firm' which is still active and the other in the status of 'Company' , which the assessee appellant company has been using for filing it's return of income. We do not know, whether it is the mistake of the appellant company or the Department. Although, the appellant company claims that, the Department mistakenly allotted PAN in the status of 'Firm' and the appellant company has surrendered the said PAN, but, the fact remains that the old PAN is still active. In fact, the Counsel for the Assessee himself admitted the fact that, the appellant company has not carried-out relevant amendments to import and export

Code nos. allotted by the DGFT by incorporating new PAN. Since the appellant company has not carried-out relevant amendments by incorporating new PAN in IEC Code, the DGFT has reported import and export transactions under old PAN to the Income Tax Department. The Department on the basis of information received from the DGFT has issued notice to the appellant company u/sec.148A of the Act, but, the assessee neither responded nor filed any details. Therefore, the Assessing Officer has passed the best judgment assessment order u/sec.144 r.w.s.143(3) of the Income Tax Act, 1961 for both the assessment years and made additions towards transactions reported by the DGFT. Since the appellant company has already filed return of income under new PAN AAACL8515G for both the assessment years and further for both the assessment years, the Department has passed assessment orders u/sec.143(3) of the Income Tax Act, 1961, under new PAN, in our considered view, the assessment order passed by the Assessing Officer u/sec.147 r.w.s.144 of the Act in old PAN for both the assessment years cannot survive, provided, the transactions reported by the DGFT in old PAN are already considered and accounted by the appellant company in their books of accounts. Since the appellant company was not aware of the proceedings initiated by the Department u/sec.148A of the Act and it came to know only during the proceedings for the assessment year 2016-2017 before the Assessing Officer, in our considered view, the delay in filing of the appeal before the learned CIT(A) needs to be condoned for both the assessment years because, there is 'sufficient and reasonable cause' for the appellant company for not filing the appeals on or before the "due date" provided under the Act. Thus, we condone the delay in filing of the appeals before the learned CIT(A) for both the assessment years. Further, since there are two PAN nos. in the

name of the appellant company, in our considered view, the matter needs to be verified by the jurisdictional Assessing Officer in light of our discussion hereinabove to ascertain the fact with regard to the transactions reported by the DGFT under old PAN, whether the said transactions are already accounted by the appellant company in their books of accounts or not ? Thus, we set aside the order of the learned CIT(A) for both the assessment years and restore the issue to the file of jurisdictional Assessing Officer for further verification. The Assessing Officer is directed to verify the issue in light of our discussion hereinabove and also any other evidences that may be filed by the appellant company to substantiate it's case."

8. Therefore, the default on the part of the assessee for holding two PANs may attract other actions under the law and particularly, the Income Tax Act, but, the same cannot be a reason for dismissal of the appeal by the learned CIT(A). Accordingly, in the facts and circumstances of the case, we set-aside the impugned order of the learned CIT(A) and remit the matter to the record of the Assessing Officer for proper verification and examination of the relevant record including the “**scrutiny of the return of income**” filed by the assessee under new PAN i.e., BFTPM6705H and then, pass fresh order as per law, after giving proper opportunity of hearing to the assessee.

9. In the result, ITA.No.1157/Hyd./2025 of the Assessee is allowed for statistical purposes.

ITA.No.1158/Hyd./2025 – A.Y. 2012-2013 [Penalty Appeal] :

10. We have heard the learned AR of the Assessee and the learned DR of the Revenue and considered the relevant material on record. The learned CIT(A) has dismissed the penalty appeal on the same technical ground as the appeal against the assessment order was dismissed. Since, we have already set-aside the matter in quantum appeal [i.e., ITA.No.1157/Hyd./2025 for the A.Y. 2012-2013] to the record of the Assessing Officer, therefore, the penalty levied by the Assessing Officer u/sec.271(1)(c) is consequential and accordingly set-aside. Further, the Assessing Officer is at liberty to take action for levy of penalty as per the outcome of the set-aside proceedings in quantum.

11. In the result, ITA.No.1158/Hyd./2025 of the Assessee is allowed for statistical purposes.

12. To sum-up, both the appeals ITA.Nos.1157 and 1158/Hyd./2025 of the Assessee are allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 17th October, 2025.

Sd/-
[MADHUSUDAN SAWDIA]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 17th October, 2025

VBP

Copy to :

1.	Kiran Reddy Muddasani, Plot No.90, Chadishwari Colony, L B Nagar, Hyderabad – 500 035. Telangana.
2.	The Income Tax Officer, Ward-9(3), IT Towers, AC Guards, Masab Tank, Hyderabad – 500 004. Telangana.
3.	The Pr. CIT, Hyderabad
4.	DR, ITAT “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER,

//True copy//