

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

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA Nos.722, 879 & 723/Hyd./2025**
निर्धारण वर्ष / **Assessment Years 2013-2014, 2014-2015 & 2015-2016**

Victorymarvel Seeds India Private Limited, SECUNDERABAD - 500014 PAN AACCV9056A.	vs.	The Income Tax Officer, Ward-(TDS)-2(3), Hyderabad. PIN - 500 004
(Appellant)		(Respondent)

निर्धारिती द्वारा / Assessee by:	CA Kumar Pal Tated
राजस्व द्वारा / Revenue by:	Sri Krishna Moorthy K. Sr. AR

सुनवाई की तारीख / Date of hearing:	28.10.2025
घोषणा की तारीख / Pronouncement:	31.10.2025

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

These three appeals ITA Nos.722, 879 & 723/Hyd./2025 by the Assessee are directed against the three separate orders dated 29.01.2025, 29.01.2025 and 12.02.2025 of the learned CIT(A)-National Faceless Appeal

Centre [in short "NFAC], Delhi, for the assessment years 2013-2014, 2014-2015 and 2015-2016, respectively.

2. At the outset, there is a delay of 26 days in filing the appeal for the assessment years 2013-2014 and 2015-2016 and 17 days delay for the assessment year 2014-2015. The assessee has filed petitions for condonation of delay which are supported by the affidavits of the assessee explaining the cause of delay. The learned Authorised Representative of the Assessee submitted that the assessee company was passing through difficult period and financial crisis and business of the assessee company was almost closed and the Accountant of the assessee company who was responsible for filing the appeals as well as to arrange the relevant documents to the Authorised Representative left the assessee company. Due to this reason, there was a delay of 26 days and 17 days in filing these appeals which was neither intentional nor deliberate, but, due to the circumstances which were beyond the control of the assessee. Thus, the learned Authorised Representation of the Assessee has submitted that the delay of 26 days and

17 days in filing the appeals for the assessment years 2013-2014, 2015-2016 and 2014-2015 respectively, may be condoned and appeals of the assessee company be admitted for adjudication on merits.

3. On the other hand, learned DR for the Revenue has not raised any serious objections for condonation of the minor delay of 26 days and 17 days in filing of these appeals before the Tribunal.

4. Having considered the rival submissions and careful perusal of the reasons explained by the assessee company in the affidavits as well as the petitions for condonation of delay, we are satisfied with the reasons explained by the assessee company for the delay of 26 days and 17 days respectively in filing these three appeals. Accordingly, in the facts and circumstances of the case and in the interest of justice, we condone the delay of 26 days in filing the appeals for the assessment years 2013-2014 and 2015-2016 and 17 days for the assessment year 2014-2015.

5. The assessee company has raised common grounds in these three appeals. The grounds raised by the assessee company for the assessment year 2013-2014 are reproduced as under :

1. *“The CIT(A) erred in confirming the order of the AO for AY 2013-14.*
2. *The CIT(A) passed the order against the appellant without granting any opportunity of being heard. Hence, the Order is not in accordance with the principles of natural justice.*
3. *The CIT(A) erred in confirming the levy of fine u/s 234E of the Act for the AY 2013-14.*
4. *The CIT(A) ought to have appreciated the fact that appellant company had neither wilfully nor intentionally delayed the filing of TDS Statements. The appellant company had reasonable and sufficient cause to not file the TDS returns within the prescribed time limit.*
5. *The CIT(A) ought to have appreciated that the provisions of section 200A upto 31 May 2015, did not provide for levy of fine u/s 234E for the defaults in submitting statements within the stipulated period.*
6. *The levy of Fine u/s 234E was effective from 01.06.2015. The levy of fees u/s 234E is permissible where TDS statements are filed after 31" May 2015.*
7. *The CIT(A) ought to have appreciated that the appellant company for the year under consideration had filed all its TDS statements on or before 31.05.2015. Hence, no fee can be levied on the appellant for belated filing of its TDS Statements.*

8. *The Hon'ble ITAT of Pune 'A' Bench, in the case of "Dadasaheb Vittalrao Urhe vs ITO, TDS, Pune" held that where TDS statements for the AY 2013-14, AY 2014-15 and AY 2015-16 are filed belatedly, but are filed on or before 31 May 2015, then fine u/s 234E shall not get attracted.*

9. *The Appellant may add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal."*

6. The learned Authorised Representative of the Assessee submitted that the learned CIT(A) has not decided the appeal on merits, but, dismissed the appeals of the assessee *in limine* for non-prosecution. Thus, the learned Authorised Representative of the Assessee submitted that due to the circumstances as explained for the delay in filing the appeals and consequential developments that the Accountant who was looking after the tax matters left the assessee company, resulted non-compliance of the notices issued by the learned CIT(A). He has, thus, submitted that since the Accountant who was looking after the tax matters and providing the relevant details and documents to the Authorised Representative left the company and, therefore, the assessee company could not comply with the notices

issued by the learned CIT(A). Thus, he has prayed that the impugned orders of the learned CIT(A) may be set-aside and the matter may be remanded to the record of the learned CIT(A).

7. On the other hand, the learned DR has submitted that sufficient opportunities were given by the learned CIT(A). However, the assessee company has failed to produce any supporting evidences or documents in support of the grounds raised by it before the learned CIT(A). He has relied upon the impugned order of the learned CIT(A).

8. We have considered the rival submissions as well as the relevant material on record. The learned CIT(A) has issued three notices in the months of December and January, 2025 and thereafter, dismissed these appeals vide separate orders for want of prosecution. It is pertinent to note that these appeals were instituted in the month of August, 2022 and the first notice was issued by the learned CIT(A) only in the month of December, 2024 and the remaining two notices in the month of January, 2025. Because there was no response on behalf of the assessee

company, the appeals of the assessee company were dismissed by the learned CIT(A) by identical orders. The findings of the learned CIT(A) for the assessment year 2013-2014 in paras-5 to 5.5 are reproduced as under :

“5. FINDINGS & DECISION

5.1 The appellant is on appeal before this office against the order passed under section 200A of the Income Tax Act against the order passed by CPC, TDS, Ghaziabad.

5.2 The appellant was provided multiple opportunities by this office to submit documents and make submissions in response to the appeal filed. However, the appellant has not exercised this option despite multiple reminders. The table below indicates the dates and the compliance status of the various notices issued

<i>Sl.No.</i>	<i>Date of Notice</i>	<i>Compliance Date</i>	<i>Remarks</i>
<i>1.</i>	<i>20th December, 2024</i>	<i>---</i>	<i>No details furnished nor any petition for adjournment was received.</i>
<i>2.</i>	<i>7th January, 2025</i>	<i>---</i>	<i>No details furnished nor any petition for adjournment was received.</i>
<i>3.</i>	<i>15th January, 2025</i>	<i>---</i>	<i>No details furnished nor any petition for adjournment was received.</i>

The conduct of the Appellant, as inferred from the aforesaid table, evidences that the Appellant is not interested in pursuing the Appeal.

5.3. The law aids those who are vigilant, not those who sleep upon their rights. This principle is embodied in the well-known Latin dictum, "VIGILANTIBUS ET NON DORMIENTIBUS JURA SUB VENIUNT. The conduct of the Appellant, as inferred from the aforesaid table, evidences that the Appellant fails on this principle of equity. Even the

Hon'ble Courts, in various pronouncements, have frowned upon the Appellants who file appeals but thereafter do not take any further interest in persuading those appeals.

5.3.1. The Hon'ble Income Tax Appellate Tribunal Kolkata in the case of Pradeep Kumar Jhawar Kolkata vs. DCIT-CC-XXI (15 March, 2016) (ITA Nos. 450/Kol/ 2013 for Asstt. Year: 2006-07) dismissed the appeal of the Appellant for non-prosecution.

5.3.2. The Hon'ble Madhya Pradesh High Court in the case of Estate of Late Tukojirao Holkar vs. CWT (223 ITR 480) held as under:

"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."

5.3.3. Similarly, the Hon'ble Punjab & Haryana High Court in the case of New Diwan Oil Mills vs. CIT [(2008) 296 ITR 495] returned the reference unanswered since the assessee remained absent and there was no assistance from the assessee.

5.4 In view of the above, it is clear that the Appellant is not aggrieved with the order passed u/s 200A impugned herein and is not interested in persuading the same. Accordingly, the additions/disallowances as challenged in the Appeal Memo is hereby confirmed.

5.5 Based on the above it appears that the appellant is not keen on pursuing the appeal. Accordingly, given that this office has not received any information or document so as to make a judgment based on merits, this office is left with no option but to dismiss this appeal. Accordingly, the appeal of the appellant stands dismissed."

9. Thus, it is clear from the impugned orders of the learned CIT(A) that the appeals of the assessee were

dismissed *in limine* for non-prosecution and the same were not decided on merits. Therefore, the impugned orders passed by the learned CIT(A) are not in accordance with the provisions of Section 250(6) the Income Tax Act, 1961. Accordingly, in the facts and circumstances of the case and in the interest of justice, the impugned orders of the learned CIT(A) for the assessment years 2013-2014 to 2015-2016 are set-aside and the matters are remanded to the record of the learned CIT(A) for fresh adjudication of the appeals of the assessee on merits, after giving proper opportunity of hearing to the assessee.

10. In the result, these three appeals 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 31.10.2025.

Sd/-
[MANJUNATHA G.]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 31st October, 2025

VBP

Copy to :

1.	Victorymarvel Seeds India Private Limited, Survey No.42-43-45, Villa No.8-53, Anthem Project, Gundlapochampally, SECUNDERABAD – 500014.
2.	The Income Tax Officer, Ward-(TDS)-2(3), IT Towers, AC Guards, Hyderabad – 500 004.
3.	The Pr. CIT, Hyderabad
4.	DR, ITAT “B” Bench, Hyderabad.
5.	Guard file.

BY ORDER,

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