

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' SMC ' Bench, Hyderabad
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA Nos.1229 & 1230/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2014-15)

Shri Sampath Reddy Vem Warangal PAN:ADFPV3598L	Vs.	Income Tax Officer Ward-1 Warangal (Respondent)
निर्धारिती द्वारा/Assessee by:	Shri K.A. Sai Prasad, CA	
राजस्व द्वारा/Revenue by::	Shri R. Kumaran, Sr. DR	
सुनवाई की तारीख/Date of hearing:	12/11/2025	
घोषणा की तारीख/Pronouncement:	19/11/2025	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

Theses appeals are filed by Shri Sampath Reddy Vem (“the assessee”), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”) dated 23.05.2025 & 24.05.2025 respectively for the A.Y 2014-15. As both the appeals are related to the same assessee therefore, for the purpose of convenience and brevity, these two appeals were heard together and are being disposed of by this common order.

ITA No. 1229/HYD/2025 :

2. The assessee has raised the following grounds of appeal in ITA No.1229/Hyd/2025:

“1. The Order of the learned Commissioner of Income Tax (A),NFAC is not correct either on facts or in law and in both.

2. a) The Learned CIT (A), NFAC, erred in law and on facts in dismissing the appeal in limine by refusing to condone the delay of 397 days, without appreciating the genuine and bonafide reasons beyond the appellant's control that led to the delay in filing the appeal.

b) The Learned CIT(A), NFAC erred in ignoring that all statutory notices were served on the email ID of the appellant's previous Chartered Accountant, and due to which the appellant was not made aware of the assessment proceedings, resulting in unintentional delay.

c) The Learned CIT(A), NFAC failed to appreciate that the delay was discovered only upon receipt of a demand notice, after which the appellant promptly approached the jurisdictional AO, obtained the assessment records, and initiated appellate proceedings in good faith.

3. The Learned CIT(A), NFAC further erred in not adjudicating the appeal on merits, particularly where the additions made by the Assessing Officer are excessive, arbitrary, and contrary to the settled legal position regarding estimation of income in liquor trade and small contract businesses.

4. a) The Ld. CIT(A), NFAC erred in upholding the action of the Ld. AO in estimating net profit from the liquor business at 5% on stock put to sale amounting to Rs. 5,09,15,320/-, instead of Rs. 4,77,71,169/-, in disregard of the earlier direction of the Ld. CIT(A)-8 to adopt 3% estimation, and by wrongly including privilege fee of Rs. 31,44,811/- which does not represent stock supplied.

b) The Learned CIT(A), NFAC is not justified in upholding the action of Ld. AO in adding other income of Rs. 2,34,028/- over and above the estimated profit without any justification or reconciliation with disclosed income, thereby resulting in double taxation.

5. The Learned. CIT(A) erred in not appreciating that the appellant had offered income from contract business under Section 44AD at a rate higher than the prescribed 8%, and hence, disallowance of statutory deductions like seignorages,

cess, and VAT totaling Rs. 1,21,435/- was unwarranted under the presumptive taxation scheme.

6. The appellant craves leave to add, amend, modify, rescind, supplement or alter any or more grounds of appeal stated herein above either before or at the time of hearing of this appeal.”

3. The brief facts of the case are that the assessee is an individual, filed his return of income for Assessment Year 2014-15 on 22.01.2015, declaring total income of Rs.9,54,460/-. This is the second round of appeal before this Tribunal. In the first round, the case of the assessee was assessed under section 143(3) of the Income Tax Act, 1961 (“the Act”) by the Learned Assessing Officer (“Ld. AO”) on 30.12.2016, and the Ld. CIT(A) had partly allowed the appeal of the assessee. Thereafter, this Tribunal, vide order dated 23.01.2020 in ITA No.1180/Hyd/2018, had restored the issue to the file of the Ld. AO for de novo consideration of the matter.

4. During the remand proceedings, the assessee could not comply with the notices issued by the Ld. AO. Consequently, the Ld. AO completed the assessment under section 143(3) r.w.s. 254 and 144B of the Act on 22.09.2021, assessing the total income of the assessee at Rs.30,28,350/-.

5. Aggrieved by the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). However, before the Ld. CIT(A), there was a delay of 397 days in filing the appeal. The Ld. CIT(A), without condoning the delay, dismissed the appeal of the assessee in limine on the ground of limitation.

6. Aggrieved with the order of the Ld. CIT(A), the assessee is now in appeal before this Tribunal. The Learned Authorized Representative ("Ld. AR") invited our attention to the personal details of the assessee registered on the Income Tax Portal, where the registered email ID of the assessee has been recorded as sampathreddy539@gmail.com. He further invited our attention to the notices issued by the Ld. AO, which were sent to an entirely different email ID, namely ravikumarca2007@gmail.com. It was submitted that all notices, including the assessment order, were sent to an email ID not belonging to the assessee and not registered on the income tax portal. He also submitted that because of this error, the assessee was unaware of the assessment proceedings and the passing of the assessment order. Subsequently, while checking his details on the income tax portal, the assessee came to know about the passing of the assessment order. Immediately thereafter, the assessee arranged to file an appeal before the Ld. CIT(A). Due to this reason, a delay of 397 days occurred in filing the appeal. The reason for delay was completely beyond the control of the assessee, and there was no deliberate or mala fide intention. Accordingly, the assessee had a genuine and bona fide cause for the delay. However, the Ld. CIT(A), without examining the genuineness of the cause, refused to condone the delay and dismissed the appeal. Hence, the case of the assessee required to be adjudicated on merits. The Ld. AR also submitted that, since the assessee could not prosecute his case on merits before the Ld. AO also, the matter may be restored to the file of the Ld. AO for fresh adjudication, after granting proper opportunity of being heard.

7. Per contra, the Learned Departmental Representative (“Ld. DR”) submitted that this is the second round of litigation, and even during the remand proceedings, the assessee did not comply with the notices of the Ld. AO. Further, the assessee also failed to file the appeal before the Ld. CIT(A) within the prescribed time. Therefore, according to the Ld. DR, there is no infirmity in the order of the Ld. CIT(A).

8. We have considered the submissions of both sides and perused the material available on record. On perusal of the email records and notices issued by the Ld. AO, we observe that all notices during the remand proceedings, including the assessment order, were sent to an email ID different from the assessee’s registered email ID on the Income Tax Portal. This clearly supports the contention of the assessee that he never received the notices, nor was he aware of the assessment proceedings or the passing of the order in time. We are therefore satisfied that the reason for the delay was genuine, bona fide, and beyond the control of the assessee. There is no deliberate default on the part of the assessee. In view of the above facts, we hold that the Ld. CIT(A) ought to have condoned the delay and adjudicated the appeal on merits. The refusal to condone the delay, despite the assessee demonstrating a genuine cause, is not justified. Further, since the assessee could not prosecute his case either before the Ld. AO or the Ld. CIT(A) due to reasons not attributable to him, we are of the view that, in the interest of substantial justice, one more opportunity should be afforded to the assessee to present his case on merits. Accordingly, the delay of 397 days in filing the appeal before the Ld. CIT(A) is condoned and the matter is restored to the

file of the Ld. AO for de novo adjudication in accordance with law. The Ld. AO shall provide the assessee with adequate opportunity of being heard. The assessee shall be at liberty to file all relevant evidences, documents and submissions in support of his claim. The assessee is also directed not to seek unnecessary adjournments and to cooperate fully with the remand proceedings.

9. In the result, the appeal of the assessee in ITA No.1229/Hyd/2025 is allowed for statistical purposes, with directions as above.

ITA No.1230/HYD/2025 :

10. The assessee has raised the following grounds of appeal in ITA No.1230/Hyd/2025:

“1. The Order of the learned Commissioner of Income Tax (A), NFAC is not correct either on facts or in law and in both.

2. a) The Learned CIT(A), NFAC, erred in law and on facts in dismissing the appeal in limine without properly appreciating the reasons for the .delay in filing the appeal.

b) The Learned CIT(A), NFAC failed to consider that the delay in filing the appeal was neither deliberate nor willful, but occurred due to bona fide circumstances beyond the appellant's control.

3. The Learned CIT(A), NFAC erred in upholding the penalty of Rs. 7,60,660 under section 271(1)(c), despite fact that the addition of Rs. 30,28,350 being purely on estimated profit @5% of stock put to sale and also includes disallowance of income declared under the contract business on presumptive basis and other cess deductions, which involve no concealment or furnishing of inaccurate particulars.

4. The Learned CIT(A), NFAC erred in not appreciating that where income is assessed on estimated basis, especially after rejection of books of account, penalty under section 271(1)(c) is not leviable, as held by various judicial pronouncements, including that of the Hon'ble Supreme Court and High Courts.

5. The Learned CIT(A), NFAC failed to consider that the explanation offered by the appellant regarding non-appearance during assessment and penalty proceedings was duly supported by the factual matrix, and the absence of mens rea or deliberate concealment should have warranted deletion of penalty.

6. The appellant craves leave to add, amend, modify, rescind, supplement or alter any or more grounds of appeal stated herein above either before or at the time of hearing of this appeal.”

11. This appeal relates to the penalty proceedings under section 271(1)(c) of the Act. The penalty of Rs.7,60,660/- has been levied on the assessee by the Ld. AO vide order dated 22.12.2021. The brief facts are that during the penalty proceedings before the Ld. AO, there was no appearance or compliance on behalf of the assessee. Aggrieved by the penalty order, the assessee preferred an appeal before the Ld. CIT(A). However, there was a delay of 305 days in filing the appeal, and the Ld. CIT(A) did not condone the delay and dismissed the appeal in limine.

12. It was brought to our notice by the Ld. AR that the reasons for non-compliance before the Ld. AO and the reasons for delay before the Ld. CIT(A) are identical to those explained in the assessee's quantum appeal in ITA No.1229/Hyd/2025. We have already adjudicated the quantum appeal in ITA No.1229/Hyd/2025, wherein we have condoned the delay in filing the appeal before the Ld. CIT(A) and remanded the matter to the file of the Ld. AO for de novo adjudication on merits. The facts and circumstances in the present penalty appeal are pari materia to the quantum appeal in ITA No.1229/Hyd/2025. The non-compliance before the Ld. AO and the ground for delay before the Ld. CIT(A) are entirely the same. Therefore, our observations and

findings in the quantum appeal apply with equal force to this penalty appeal as well. Accordingly, the delay of 305 days in filing the appeal before the Ld. CIT(A) is condoned and the matter is restored to the file of the Ld. AO for de novo adjudication in terms of our observations in ITA No.1229/Hyd/2025.

13. In the result, the appeal in ITA No.1230/Hyd/2025 is allowed for statistical purposes.

14. To sum up, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the Open Court on 19th November, 2025.

Sd/-

Sd/-

(VIJAY PAL RAO) VICE PRESIDENT	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
-------------------------------------------	--------------------------------------------------

Hyderabad, dated 19th November, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Sampath Reddy Vem, c/o Katrapati & Associates, 1-1-298/2/B/3 Sowbhagya Avenue Apts, 1st Floor, Ashok Nagar, Street No.1 Hyderabad 500020&
2	Income Tax Officer Ward 1 D.No.1-8-610 3 rd Floor, Mayuri Complex, Opp: TSNPDCL Bhawan, Nakkalagutta, Hanumkonda, Warangal 406001
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order