

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**VISAKHAPATNAM “DIVISION” BENCH, VISAKHAPATNAM**  
**(HYBRID HEARING)**

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**  
**BEFORE SHRI RAVISH SOOD, HON’BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.Nos.400 & 401/VIZ/2025**  
**(निर्धारण वर्ष/ Assessment Year:2018-19)**

<b>Jain Babulal Champatlal</b> 40-1-155, LGF Ripples Mall, M.G. Road Vijayawada-520010 Andhra Pradesh  <b>[PAN:AEFPC1220F]</b>	<b>Vs.</b>	<b>Income Tax Officer – Ward – 2(1)</b> CR Building, 1 <sup>st</sup> Floor Annex MG Road, Vijayawada – 520002 Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri ASRSS Siva Prasad, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	04.11.2025
घोषणा की तारीख/Date of Pronouncement	:	07.11.2025

**आदेश /O R D E R**

**PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. These appeals are filed by the assessee against different orders of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre,

Delhi [hereinafter in short “Ld.CIT(A)”] vide respective DIN & Order No. as stated below: -

<b>ITA No. (A.Y.)</b>	<b>DIN &amp; Order No.</b>	<b>Dated</b>
ITA No. 400/VIZ/2025 (A.Y. 2018-09)	ITBA/NFAC/S/250/2025-26/1075641953(1)	16.04.2025
ITA No. 401/VIZ/2025 (A.Y. 2018-19)	ITBA/NFAC/S/250/2025-26/1075641823(1)	16.04.2025

Since the appeals are belonging to same assessee, therefore, both these appeals are clubbed and heard together and a consolidated order being passed.

2. Brief facts of the case are, assessee is an individual, a director of M/s.Fuso Glass India Pvt. Ltd and a partner in M/s. Suraj Constructions, filed his return of income for the A.Y. 2018-19 on 25.07.2018 admitting a total income of Rs.51,17,260/-. Thereafter, assessee filed revised return of income on 08.08.2018 with total taxable income at Rs.45,32,580/-. Subsequently, the case was selected for complete scrutiny under e-assessment scheme, 2019 for verifying “reduction of Income in Revised Return & Claim of Refund”. Accordingly, statutory notices under section 143(2) and 142(1) of the Act were issued and served on the assessee. In response, assessee furnished the information as called for. During the course of scrutiny proceedings, Ld. AO noticed that assessee has claimed deduction under section 57 of the Act to the interest payments made by the assessee. Ld. AO observed that assessee has incurred interest expenditure at Rs.30,62,208/- and claimed deduction under section 57 of the Act. After considering the details furnished by the assessee,

Ld. AO completed the assessment under section 143(3) r.w.s. 143(3A) & 143(3B) of the Act on 13.03.2021 by disallowing an interest of Rs.8,18,571/- (Rs.4,70,250/ + Rs.3,35,404/- + Rs.12,917/-) observing that the interest payment has not been incurred wholly and exclusively for earning income, accordingly, disallowed the same and added back to the total income of the assessee. Further, Ld. AO also disallowed the claim of HRA to the tune of Rs.86,600/- under section 10(13A) of the Act. While passing the assessment order, the Ld. AO also initiated the penalty proceedings under section 270A of the Act and simultaneously imposed the penalty of Rs.8,56,824/- being 200% of the amount of tax payable on misreported income and passed the order dated 26.03.2022.

3. On being aggrieved by the orders of the Ld. AO, the assessee preferred two appeals i.e., one appeal against the quantum addition and the other appeal against the levy of penalty, before the Ld. CIT(A) with a delay of 1351 days and 974 days respectively. Before the Ld. CIT(A), the assessee submitted that the delay in filing both the appeals is due to the non-usage of the email ID, frequent travel due to business commitments, lack of knowledge of the assessment proceedings, health issues and the impact of the COVID-19. However, in the absence of any cogent evidence to substantiate that the assessee suffered from ill-health due to which the appeals were filed belatedly, the Ld. CIT(A), did not condone the delay and dismissed the appeals of the assessee.

4. On being aggrieved by the orders of the Ld. CIT(A), the assessee filed the present appeals before us by raising the following grounds of appeal: -

**Grounds raised in ITA No. 400/VIZ/2025**

“1. Both in law and in Facts of the case, the order made by the Ld. Commissioner of Income Tax (Appeals), NFAC, is bad in law, arbitrary, contrary to the provisions of law and against the principles of natural justice.

2 The Ld. CIT(A), NFAC is not justified in dismissing the appeal for statistical purposes without taking into consideration the affidavit filed by the appellant requesting to condone the delay in filing the appeal which is due to the circumstances beyond his control.

3. The Ld. CIT(A), NFAC erred in law in dismissing the appeal stating that the appeal is not required to be adjudicated on merits.

4. The Ld. CIT(A), NFAC has not followed the Principles of Natural Justice as the appeal is disposed off by not admitting it on the ground that the same is not filed in time even without giving the opportunity of being heard.

5. The Assessing Officer, NFAC erred in law in levying a penalty of Rs. 8,56,824/- u/s 270A stating that the assessee under reported his income of Rs. 86,600/- towards HRA and Rs. 8,18,571/- towards interest though the said amount was reported as interest payment in the books of account.

6. The levy of penalty of Rs.8,56,824/- by the Assessing officer, NFAC @200% on tax payable as calculated is against the provisions of law since addition made in the assessment does not amount to under reporting of income which is inconsequence of mis reporting of income.

7. The Assessing officer, NFAC did not have cogent material on record to establish that there is either under reporting of income u/s 270A (2) or misreporting of income u/s 270A(9) or there is under reporting of income which is inconsequence of misreporting of income.

8. The Assessment Unit, Income Tax Department has erred on facts and in law as material placed on record was not considered in its proper perspective leading to erroneous conclusion.

9. The appellant craves leave to add, to alter, modify, amend, substitute, delete and/or rescind all or any of the grounds of appeal on or before the final hearing, if necessary so arises.

*The appellant prays the Hon'ble ITAT for appropriate relief based on the said grounds of appeal and the facts and the circumstances of the cases and also to adjudicate the grounds of appeal on merits.”*

**Grounds raised in ITA No. 401/VIZ/2025**

*“1. Both in law and in Facts of the case, the order made by the Ld. Commissioner of Income Tax (Appeals), NFAC, is bad in law, arbitrary, contrary to the provisions of law and against the principles of natural justice.*

*2. The Ld. CIT(A), NFAC is not justified in dismissing the appeal for statistical purposes without taking into consideration the affidavit filed by the appellant requesting to condone the delay in filing the appeal which is due to the circumstances beyond his control.*

*3. The Ld. CIT(A), NFAC erred in law in dismissing the appeal stating that the appeal is not required to be adjudicated on merits.*

*4. The Ld. CIT (A) is wrong in not admitting the appeal due to delay in filing after issuing a notice U/S 250 of the Act vide DIN ITBA/NFAC/F/APL\_1/2025- 26/1075391871(1) asking the assessee to furnish ground wise written submissions.*

*5. The Ld. CIT(A), NFAC has not followed the Principles of Natural Justice as the appeal is disposed off by not admitting it before the expiry of time to furnish the written reply by the appellant in response to notice issued U/S 250 of the Act on the ground that the same is not filed in time.*

*6. The Assessing Officer National e-Assessment Centre is unjust in disallowing the interest payment to the tune of Rs.8,18,571/- without looking into the modus operandi of the assessee in the movement of funds - borrowings obtained to earn income by lending the same. The Assessing Officer National e-Assessment Centre ought to have considered the submissions of the assessee that all the funds borrowed either during the Previous Year or earlier years have been utilised to earn income.*

*7. The Assessing Officer National e-Assessment Centre is not justified in disallowing the interest paid to the tune of Rs.8,18,571/- as there was no cogent material or record or any other evidence with the department to establish that funds borrowed have been used for any purpose other than to earn interest income.*

*8. The Assessing Officer National e-Assessment Centre failed to take into account that the expenditure (interest paid) is a permissible deduction u/s 57(iii) since the expenditure was incurred legitimately and bona fide for making or earning the income.*

*9. The Assessing Officer also erred in disallowing the claim of HRA to the tune of Rs.86,600/- u/s 10 (13A) of the Income Tax Act, 1961.*

10. *The appellant craves leave to add to alter, amend, modify, substitute, delete and/or rescind all or any of the grounds of appeal on or before the final hearing, if the necessity so arises.*

*The appellant prays the Hon'ble ITAT for appropriate relief based on the said grounds of appeal and the facts and the circumstances of the cases and also to adjudicate the grounds of appeal on merits.”*

5. At the outset, the Ld. Authorised Representative [hereinafter “Ld.AR”] submitted that due to ill-health of the assessee and the reasons mentioned in the condonation petition before the Ld. CIT(A), the appeals were filed belatedly before the Ld. CIT(A). Therefore, he pleaded that the delay in filing the appeals before the Ld. CIT(A) may be condoned and the matter may be remitted back to the file of the Ld.CIT(A).

6. On the other hand, Ld. Departmental Representative (hereinafter in short “Ld. DR”) vehemently opposed to the submissions of the Ld.AR and submitted that the onus is on the assessee to prove the sufficient and reasonable cause for belated filing of the appeals along with documentary evidence. In the absence of any cogent proof / evidence, the Ld. CIT(A) did not condone the delay and therefore the decision of the Ld. CIT(A) in dismissing the appeals need no interference.

7. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. It is a fact that the assessee has filed both the appeal belatedly beyond the prescribed time limit. There is a delay of 1351 days in quantum appeal and 974 days in penalty appeal before the Ld. CIT(A). The following are the reasons adduced by the assessee for the delay in filing the appeal before the Ld.CIT(A).

- i. Non usage of the e-mail ID.
- ii. Frequent travels due to business commitment.
- iii. Lack of knowledge of the assessment proceedings.
- iv. Impact of Covid-19 pandemic and health issues.

8. In the instant case, the Ld.AO passed the order dated 13.03.2021 u/s. 143(3) r.w.s. 143(3A) & 143(3B) of the Act. It is the submission of the assessee before the Ld. CIT(A) due to the above listed reasons, the appeals could not be filed within the time. However, no such evidence / medical certificate regarding the ill-health condition of the assessee was produced before the Ld. CIT(A) or even before us. Neither date of limitation is covered under the COVID period. Further, frequent travels due to business commitment and lack of knowledge of assessment proceedings could not be considered as sufficient cause for condoning the delay in filing the appeal before the Ld.CIT(A). Hence,

under these circumstances of the case, we find that no sufficient or reasonable cause has been adduced along with the evidence by the assessee and hence we have no hesitation to come to a conclusion that there is no infirmity in the orders of the Ld. CIT(A) in both the appeals under consideration. Accordingly, the grounds raised by the assessee in both the appeals are dismissed.

9. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced in the open court on 07<sup>th</sup> November, 2025.

**Sd/-**  
**(रवीश सूद)**  
**(RAVISH SOOD)**  
**न्यायिक सदस्य/JUDICIAL MEMBER**

Dated: 07.11.2025  
Giridhar, Sr.PS

**Sd/-**  
**(एस बालाकृष्णन)**  
**(S. BALAKRISHNAN)**  
**लेखा सदस्य/ACCOUNTANT MEMBER**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारित/ The Assessee : **Jain Babulal Champatlal**  
40-1-155, LGF  
Ripples Mall, M.G. Road  
Vijayawada-520010  
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer – Ward – 2(1)**  
CR Building, 1st Floor Annex  
MG Road, Vijayawada – 520002  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापट्टणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam