

**आयकर अपीलीय अधिकरण, विशाखपटनम पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Visakhapatnam, "DIVN" Bench, Visakhapatnam**

**Before Shri Manjunatha G., Accountant Member**  
**and**  
**Shri Ravish Sood, Judicial Member**

आ.अपी.सं /**ITA No. 554/Viz/2025**  
(निर्धारण वर्ष /Assessment Year: 2018-19)

Income Tax Officer, Ward-1, Kakinada.	Vs.	Three Seasons Ware Housing, Kakinada.  PAN: AAJFT4738R
(Appellant)		(Respondent)

C.O. No. 41/Viz/2025  
(In आ.अपी.सं /**ITA No.554/Viz/2025**  
(निर्धारण वर्ष /Assessment Year: 2018-19)

Three Seasons Ware Housing, Kakinada.  PAN: AAJFT4738R	Vs.	Income Tax Officer, Ward-1, Kakinada.
(Cross Objector)		(Respondent)
निर्धारिती द्वारा /Assessee by:	Shri GVN Hari, Advocate (Hybrid Hearing)	
राजस्व द्वारा /Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख /Date of Hearing:	11/11/2025	
घोषणा की तारीख /Date of Pronouncement:	14/11/2025	

आदेश / ORDER

**PER. RAVISH SOOD, J.M:**

The captioned appeal filed by the revenue is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 25/07/2025, which in turn arises from the assessment order passed by the AO under section 271AAC(1) of the Income-tax Act, 1961 (for short, "Act"), dated 27/11/2024 for the Assessment Year 2018–19. The revenue has assailed the impugned order on the following grounds of appeal before us:

- “1. The order of the Ld. CIT(A) NFAC, Delhi is erroneous both on facts and in law.
2. The Ld. CIT(A) has failed to appreciate that the department has preferred an appeal under section 260A before the Hon'ble High Court of Andhra Pradesh, Amaravati against the order of the Hon'ble ITAT dated 20.02.2025, and the proceedings are pending, rendering the deletion of penalty premature.
3. The Department craves leave to add or delete or amend or substitute any ground of appeal before and/or at the time of hearing of appeal.
4. For these and other grounds that may be urged at the time of appeal hearing, it is prayed that all these above additions be restored.”

2. Apart from that, the assessee is before us as a Cross Objector raising the following grounds of objection:

- “1. The Ld. CIT(A) is justified in directing the Assessing Officer to delete the penalty of Rs. 97,38,000/- levied by the Assessing Officer under section 271AAC of the Act on the ground that the appeal filed in the quantum proceedings was allowed by the Hon’ble ITAT, Visakhapatnam Bench.
2. Any other grounds of Cross Objection that may be raised at the time of hearing.”
3. Succinctly stated, the assessee firm had filed its return of income for AY 2018-19 on 31/08/2018, declaring a loss of Rs. 21,506/-. Thereafter, the case of the assessee firm was selected for scrutiny assessment under section 143(2) of the Act.
4. Thereafter, the AO made an addition under section 68 of the Act of Rs.16.23 crores (approx.) and assessed the income of the assessee firm vide his order under section 143(3) r.w.s 144B of the Act, dated 30/04/2021. Also, the AO, while culminating the assessment, initiated penalty proceedings under section 271AAC of the Act.
5. Aggrieved, the assessee firm assailed the quantum assessment framed by the AO vide his order under section 143(3) r.w.s 144B of the Act, dated 30/04/2021 before the CIT(A), who vide his order, dated 26/09/2023 dismissed the appeal.
6. In the meantime, the AO vide his order passed under section 271AAC of the Act, 27/11/2024 imposed a penalty of Rs.97,38,000/- on

the assessee firm. Thereafter, the appeal filed by the assessee firm against the order passed by the CIT(A) dismissing its appeal was allowed by the Tribunal vide its order passed in ITA No. 286/Viz/2023, dated 20/02/2025. For the sake of clarity, we deem it apposite to cull out the observations of the Tribunal, as under:

“7. We have heard both the antes and perused the material available on word as well as the orders of the Ld. Revenue Authorities. Since the additional evidence submitted by the assessee is relevant, it is admitted. It is an undisputed fact that the assessee has received an amount of 16.03,00,000/- during the AY 2018-19 from its associate concern M/s. Three Reasons Exim Hd. It is also undisputed that Mr. J. Bala Gandhi Raju and Mrs. Padmavathi are partners of the assessee-firm and also shareholders / Directors of the company M/s. Three Seasons Exim Ltd. We find from the submissions made by the Ld. AR that the company M/s Three Seasons Exim Lid has granted material advance to the assessee firm amounting to Rs. 16,23,00,000/- during the FY 2017-18. This fact was recorded in the books of account of the company in Note No. 19 Short Term Loans and Advances as "Advance for plant and machinery, materials". This fact was never disputed by the Revenue. The submission of the assessee is that this amount was subsequently transferred to the partner's account ie., Rs. 6,78,00,000/- to Mr. J. Bala Clandhi Raju and Rs. 9,45,00,000/- to Mrs. J. Padmavathi. This amount was again re-invested into the company viz., M/s. Three Seasons Exim Ltd by the partners of the assessee-firm in their capacity shareholders / Directors of the company M/s Three Seasons Exim. As submitted by the Ld. AR, we find that the same amount has been circuitously accounted in the books of account, as material advance in the company and subsequently transferred to the partners of the assessee-firm which was invested in the company as share capital/unsecured loans. Further, on a perusal of the admission of additional evidence submitted by the Ld. AR we notice that the unsecured loans/advance received by the assessee-firm during the AY 2018-19 have been repaid during the FY 2023-24. Further the Ld. CIT(A) while disposing of the appeal of the company M/s Three Seasons Exim Limited has not made any observation regarding the payment of material advance by the company to the assessee firm. The Revenue has also not brought in any material challenging the material advance amount paid by M/s Three Seasons Exim Ltd to the assessee-firm, except stating that no material is supplied. The only contention of the Revenue is that the identity, creditworthiness and

genuineness of the transaction was not proved before the Ld. Revenue Authorities, could not be accepted, given the facts that the Revenue has not disputed the material advance received by the assessee-firm from the company M/s Three Seasons Exim Limited through banking channels. In these circumstances, we are of the considered view that the source of the funds which originated from the payment of material advance, was re-cycled between the assessee-firm and M/s. Three Seasons Exim Ltd has been properly explained and hence, no addition can be made U/s. 68 of the Act as unexplained cash credits. Therefore, we direct the Ld. AO to delete the addition made U/s.68 of the Act thereby allowing the Ground No.3 raised by the assessee.

8. Ground No.2 is with respect to passing of the assessment order without providing sufficient opportunity to the assessee. Since the appeal is adjudicated in favour of the assessee by adjudicating Ground No.3, the adjudication of Ground No.2 becomes merely an academic exercise. It is ordered accordingly.

9. In the result, appeal of the assessee is allowed.”

7. Thereafter, the assessee firm aggrieved with the penalty imposed by the AO under section 271AAC(1) of the Act, carried the matter in appeal before the CIT(A), who taking cognizance of the fact that the Tribunal vide its order passed in ITA No. 286/Viz/2023, dated 20/02/2025 had vacated the addition that was made by the AO vide his order passed under section 143(3) r.w.s 144B of the Act, dated 30/04/2021, deleted the penalty. However, the CIT(A) had observed that in case the department has assailed the order passed by the Tribunal before the Hon’ble High Court, then, the AO shall take necessary action in consonance with the directions of the Hon'ble High Court. Also, at the same time, it was observed by him that in case no appeal was filed by

the department before the Hon'ble High Court, then, the AO shall delete the penalty imposed by him vide his order dated 27/11/2024.

8. The revenue being aggrieved with the order of the CIT(A) who had deleted the penalty imposed by the AO under section 271AAC(1) of the Act, has carried the matter in appeal before us.

9. Dr. Aparna Villuri, the Learned Senior Departmental Representative (for short, "Ld. DR"), at the threshold of hearing of the appeal submitted that as the revenue has assailed the order passed by the Tribunal in ITA No. 286/Viz/2023, dated 20/02/2025, i.e., in quantum appeal, before the Hon'ble High Court under section 260A of the Act, therefore, the CIT(A) had erred in losing sight of the said material aspect and directed that the subject penalty be deleted.

10. Per contra, Sri GVN Hari, Advocate, the Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that as the Tribunal while disposing of the quantum appeal of the assessee firm i.e., ITA No. 286/Viz/2023, dated 20/02/2025 had vacated the impugned addition made by the AO, which in turn formed the very basis for initiation and imposition of the subject penalty under section 271AAC(1) of the Act, therefore, the

CIT(A) had rightly vacated the penalty imposed by the AO under section 271AAC(1) of the Act.

11. We have given a thoughtful consideration to the contentions advanced by the Ld. AR in the backdrop of the orders of the lower authorities.

12. Admittedly, it is a matter of fact discernible from the record that the quantum addition of Rs.16.23 crores (supra) that was made by the AO vide his order under section 143(3) r.w.s 144B of the Act, dated 30/04/2021 had been vacated by the Tribunal vide its order passed in ITA No. 286/Viz/2023, dated 20/02/2025. In our view, now as the addition based on which the impugned penalty under section 271AAC(1) of the Act was initiated and thereafter imposed by the AO in itself had been vacated, therefore, the said penalty cannot survive on a standalone basis and, thus, had rightly been quashed by the CIT(A).

13. Apropos, the Ld. AR's contention that as the department has assailed the order passed by the Tribunal in ITA No. 286/Viz/2023, dated 20/02/2023 (supra) in appeal before the Hon'ble High Court, therefore, there was no justification for the CIT(A) to have deleted the penalty imposed by the AO under section 271AAC(1) of the Act, we are unable

to persuade ourselves to concur with the same. We say so, for the reason that as the order passed by the Tribunal in ITA No. 286/Viz/2023, dated 20/02/2025 as on date had neither been set aside by the Hon'ble High Court nor stayed, therefore, the same holds the ground. Accordingly, we are of the view that no infirmity emanates from the order passed by the CIT(A) who after taking cognizance of the fact that the quantum addition made by the AO vide his order under section 143(3) r.w.s 144B of the Act, dated 30/04/2021 has been vacated by the Tribunal, deleted the penalty pertaining to the said impugned addition.

14. Resultantly, we uphold the order passed by the CIT(A) and dismiss the appeal filed by the Revenue.

15. As the Cross Objection filed by the assessee is merely supportive of the CIT(A) order, therefore, the same is disposed of in terms of our aforesaid observations.

16. Resultantly, the appeal filed by the revenue is dismissed while for the Cross Objection filed by the assessee is allowed.

Order pronounced in the open court on 14<sup>th</sup> November, 2025.

<b>Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER</b>	<b>Sd/- (RAVISH SOOD) JUDICIAL MEMBER</b>
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Hyderabad,

Dated 14<sup>th</sup> November, 2025

**OKK / SPS**

Copy to:

S.No	Addresses
1	Income Tax Officer, Ward-1, Sri Deepthi Towers, Main Road, Kakinada, Andhra Pradesh-533001.
2	Three Seasons Ware Housing, 67-1-1/2, 5 Building Centre, Kakinada, Andhra Pradesh-533003.
3	The Pr.CIT, Visakhapatnam.
4	The DR, ITAT Visakhapatnam Benches
5	Guard File

By Order

Sr. Private Secretary,  
ITAT, Visakhapatnam.