

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

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A. No.318/Hyd/2025
(निर्धारणवर्ष/ **Assessment Year:2017-18**)

Manavadariya Dharmendra Kantilal, Hyderabad. PAN: AFUPN6716R	VS.	Income Tax Officer, Ward-7(1), Hyderabad.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	25/11/2025
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	26/11/2025
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	Shri S. Rama Rao, Advocate
घोषणा की तारीख/ Date of Pronouncement	:	Dr. Sachin Kumar, Sr. AR

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the CIT(Appeals), which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 143(3) of the Income-tax Act, 1961 (for short, "Act"), dated 27.12.2019, for the

Assessment Year 2017-18. The assessee has assailed the impugned order of the CIT(Appeals) on the following grounds of appeal before us:

“1. The order of the learned CIT (A) / NFAC is erroneous both on facts and in law;

2. The learned commissioner of Income Tax (Appeals) erred in deciding the appeal ex-parte and in not deciding the grounds agitated on merits.

3. The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the assessing Officer in treating Rs. 16,01,000/- deposited during the demonetization period as income by applying the provisions of Sec.69A of the I.T Act.

4. The learned Commissioner of Income Tax (Appeals) ought to have seen that the appellant is in the business activity and the total turnover was Rs. 5,92,11,270/- and the deposits into the bank account are from out of business receipts of the appellant.

5. The learned Commissioner of Income Tax (Appeals) erred in confirming the addition made of Rs. 34,99,217/- towards estimation of income at 8% of the turnover. The commissioner of Income Tax (Appeals) ought to have seen the proper books of account were maintained and, therefore, the books of account cannot be rejected and estimation cannot be restored to

6. The learned Commissioner of Income Tax (Appeals) ought to have been that the net profit rate of 8% is unjust and incorrect.

7. The learned Commissioner of income tax (Appeals) erred in confirming the action of the Assessing Officer in rejecting the claim made under Chapter VIA of Rs. 1,00,526/-

8. The learned Commissioner of Income Tax (Appeals) erred in confirming the levy of interest u/s 234B and 234C of the I.T Act.

9. Any other ground/grounds that may be urged at the time of hearing”

2. Succinctly stated, the assessee who is engaged in the retail and wholesale business in trading in garlic had filed his return of income for A.Y. 2017-18, declaring an income of Rs. 11,41,360/-. Subsequently, the case was selected for complete scrutiny assessment.

3. Thereafter, the AO vide his order passed under Section 143(3) of the Income-tax Act, 1961 (for short, "Act") determined the income of the assessee at 63,42,103/- after making certain additions, viz. (i) unexplained cash deposits during the demonetisation period: Rs. 16,01,000/-; and (ii) estimation of net profit at 8% (after rejecting the books of account): Rs. 34,99,217/-

4. Aggrieved, the assessee filed an appeal before the CIT(A). The CIT(A), after issuing three notices, viz., dated 24.12.2020, 28.07.2022 and 05.03.2023, dismissed the appeal for non-prosecution and confirmed the additions.

5. The assessee, being aggrieved with the CIT(A) order, has carried the matter before us.

6. We have heard the Ld. Authorised Representatives of both parties, perused the orders of lower authorities and the material available on record.

7. Shr. S Rama Rao, Advocate -Ld. Authorised Representative (for short, "AR)" for the assessee, at the threshold of hearing of the appeal, submitted that there is a delay of 482 days in filing the present appeal. Elaborating on the reasons leading to the delay, the Ld. AR submitted that when Form 35 was filed before the CIT(A), the e-mail ID of the then-accountant, Shri Brij Gopal Vyas, viz. "brij.gopakvyas@gmail.com",

was used. Thereafter, Shri Brij Gopal Vyas left employment, and a new accountant, Shri Raj Gopal Vyas, created a new e-mail ID, viz. "Vyastax@gmail.com", which was thereafter used for tax matters.

8. The learned AR submitted that neither the assessee nor his staff thereafter had any access to the old e-mail ID, and therefore, the order of the CIT(A), which was dropped in that account, never came to their notice. It was further submitted that in "Form 35", the assessee had specifically opted out of service by e-mail and had requested physical service of notices at his address that was provided at Sr. No. 17, viz. "Flat No. 15-7-780, Osmangunj, Hyderabad – 500012". The Ld. AR submitted that as no notice or communication was ever served at the address provided by the assessee, therefore, he remained unaware of the appellate proceedings.

9. Carrying his contentions further, the Ld. AR submitted that the assessee first became aware of the dismissal of his appeal only when a penalty notice under Section 270A dated 11.02.2025 was received in the new e-mail ID, i.e., "Vyastax@gmail.com". The Ld. AR submitted that as the CIT(A) had failed to serve the order in the manner opted by the assessee, therefore, the delay in filing of the appeal was due to reasons beyond his control.

10. On the merits, the learned AR submitted that the CIT(A) passed an ex-parte and non-speaking order without ensuring valid service of notice, which, thus, had deprived the assessee of an effective opportunity of being heard, therefore, the the delay involved in filing the present appeal in all fairness and interest of justice be condoned and the matter be restored to the CIT(A) for fresh adjudication.

11. Per contra, Dr. Sachin Kumar, the learned Senior Departmental Representative (“DR”), submitted that the notices intimating fixation of hearing and the appellate order were validly served upon the assessee. The Ld. DR submitted that as per Section 282(1)(c) of the Act r.w Rule 127(2)(b) of the Income-tax Rules, 1962, service on the e-mail address furnished by the assessee in “Form 35” is a legally recognised mode of service. Elaborating further on his contention, the Ld. AR submitted that since the assessee had provided the e-mail ID “brij.gopakvyas@gmail.com” in “Form 35”, the CIT(A)’s action of delivering the notices and order to that e-mail ID was valid. Accordingly, it was the Ld. DR’s contention that there is no infirmity in the service of notices or the order by the CIT(A).

12. We have thoughtfully considered the contention of the Ld. DR, but are unable to persuade ourselves to concur with the same. The “1st Proviso” to Rule 127(2) of the Income-tax Rules clearly provides that where the addressee has furnished in writing any other address for the

purpose of communication, the communication shall **not** be delivered or transmitted to the address mentioned in Rule 127(2)(a)(i) to (iv). In the present case, the assessee in "Form 35" had specifically opted out of service through e-mail and had, at Sr. No. 1 of the memorandum of appeal, furnished his full postal address for the purpose of service of notices and communications. Therefore, once this option was exercised by the assessee, the CIT(A) was required to effect service **only** at the postal address provided, and service through the e-mail ID mentioned for form-filing purposes could not be regarded as valid service. Thus, the reliance placed by the Ld. DR on Section 282(1)(c) read with Rule 127(2)(b) does not carry the case of the Revenue any further.

13. In the backdrop of the above facts and the statutory framework, we are satisfied that the assessee was not put to valid notice and had remained unaware of the pendency and disposal of his appeal before the CIT(A). We are of firm conviction that, as the assessee has demonstrated a reasonable cause for the delay in filing the present appeal, therefore, in all fairness and interest of substantial justice, we condone the delay of 482 days.

14. We also find merit in the Ld. AR's contention that the CIT(A) had dismissed the appeal without ensuring proper service of notices at the address opted by the assessee. Also, we find that the order of the CIT(A) is ex-parte and is not in accordance with the principles of natural

justice. Accordingly, we find substance in the Ld. AR's contention that the assessee was deprived of an opportunity to prosecute his case and place on record material to substantiate his claim that no addition was called for in his case. We, thus, in terms of our aforesaid observations, restore the matter to the file of the CIT(A) with a direction to re-adjudicate the same.

15. We accordingly set aside the impugned order of the CIT(A) and restore the matter to his file with a direction to re-decide the appeal afresh. Needless to say, the CIT(A) shall in the course of the set aside proceeding, afford a reasonable opportunity of being heard to the assessee.

16. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26th November, 2025.

Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखासदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER
---	---

Hyderabad, dated 26.11.2025.
OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Manavadariya Dharmendra Kantilal, 15-7-780, Osmangunj, Hyderabad-500012.
2.	राजस्व/ Revenue	The :	Income Tax Officer, Ward-7(1), Signature Towers, Kondapur, Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad.