

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

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

आ.अपी.सं /**ITA No. 214/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2017-18)

Mandadi Vijaya Lakshmi, Hyderabad. PAN: AOPPL9301N	Vs.	Income Tax Officer, Ward-7(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Pavan Kumar Gorti, CA	
राजस्व द्वारा/Revenue by:	Shri D. Praveen, Sr.AR	
सुनवाई की तारीख/Date of Hearing:	19/11/2025	
घोषणा की तारीख/Date of Pronouncement:	26/11/2025	

आदेश / ORDER

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 31/05/2025 which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 144 of the Income-tax Act, 1961, dated 03.12.2019, 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. That on the facts and circumstances of the case the order passed by the Leamed Assessing Officer under section 144 of the Income tax Act 1961 is bad and erroneous in law

2. That on the facts and circumstances of the case the Leamed Assessing Officer erred in treating the cash deposit of Rs. 33,08,771/- as income u/s 69A of the Income-tax Act, 1967.

3. Any other ground that may be preferred during the course of hearing.”

2. Succinctly stated, the AO, based on information gathered under “Operation Clean Money”, observed that though the assessee had made cash deposits of Rs. 33,08,717/- in her bank account during the period relevant to Assessment Year: 2017-18, which comprised of cash deposits of Rs. 23,33,500/- made during the demonetisation period, i.e., 09.11.2016 to 31.12.2016, but had not filed her return of income, issued notices issued under section 142(1) of the Act which either remained uncompiled with by the assessee or were returned unserved. Also, the summons issued by the AO under section 131 of the Act was returned unserved. Accordingly, the AO, in the absence of any explanation regarding the nature and source of the deposits, held the entire amount of cash deposits of Rs. 33,08,717/- as the assessee’s unexplained money under Section 69A of the Act and framed the assessment vide his order under section 144 of the Act, dated 03.12.2019.

3. Aggrieved, the assessee carried the matter in appeal before the CIT(A), but with a delay of 590 days. The CIT(A) observing that, as the explanation for the delay in filing the appeal was unsubstantiated, thus declined to condone the same and dismissed the appeal on the said ground. However, the CIT(A) also upheld the addition made by the AO under Section 69A of the Act, on merits.

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

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

6. Shri. Pavan Kumar Gorti, Chartered Accountant - Ld. Authorised Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal, submitted that the present appeal involves a delay of 191 days. Elaborating on the reasons leading to the delay in filing the appeal, the Ld. AR submitted that the assessee's husband, who passed away in 2000, was engaged in a waste management business and had advanced various loans in cash. After his death, the business was carried on by her son and the deceased husband's brother. The Ld. AR submitted that the subject cash deposits made in the assessee's bank

account during the subject year represented the cash repayment of the aforementioned loans. The Ld. AR submitted that as the email ID registered with the Department belonged to the assessee's son, who did not monitor the notices issued during the assessment proceedings, thus, the assessment proceedings had gone unattended. The Ld. AR submitted that family disputes later arose between the assessee's son and her deceased husband's brother, due to which the assessee could not obtain the necessary details regarding loan repayments from her brother-in-law, nor attend to the appellate proceedings before the CIT(A). The Ld. AR submitted that the assessee, being a housewife unfamiliar with legal intricacies, was unable to follow up the proceedings. Also, the order of the CIT(A) was not conveyed to her immediately. The Ld. AR to support his factual averments had drawn our attention to the application filed by the assessee seeking condonation of the delay involved in filing the present appeal, which is accompanied with a supporting "affidavit"

7. The Ld. AR submitted that the assessee, after sustained efforts, has now obtained confirmations from six persons who had confirmed to have repaid during the subject year the cash loans earlier advanced by her deceased husband. The Ld. AR submitted that the aforesaid confirmations have been filed before the Tribunal as "additional

evidence” and requested that as the same goes to the root of the matter, therefore, considering the facts as to why the same could not be submitted before the authorities below, the same, in all fairness and interest of justice, be admitted.

8 We have given thoughtful consideration to the reasons advanced by the assessee for the delay of 191 days in filing the present appeal. In our view, as the delay in filing the present appeal had crept in because of the family disputes, communication lapses, and the assessee’s bonafide dependence on others for managing her tax matters, therefore, there exists reasonable cause for condoning the same. Accordingly, the delay of 191 days in filing the present appeal is condoned. However, considering the assessee’s lack of diligence in pursuing the income tax proceedings in a vigilant manner at the earlier stages, a cost of Rs. 5,000/- is imposed, which is directed to be deposited in the State Legal Aid Fund of the Hon’ble High Court within thirty days.

9. We further observe that although the CIT(A) had declined to condone the delay in the appeal filed before him, he nevertheless proceeded to refer to the facts involved in the case before him and at Para 7.3 specifically observed that the appellant’s case does not hold good on merit too. In our view, as it is a settled principle of law that when an

appellate authority examines the merits of the case, the delay in filing the appeal stands impliedly condoned. Reference may be made to the judgment of the **Hon'ble High Court of Madras** in the case of **Vijayeswari Textiles Ltd. Vs. CIT (2002) 256 ITR 560 (Mad)** wherein it was, inter alia, observed that as the Tribunal while declining to condone the delay involved in the appeal, had proceeded with and considered and rejected the appeal on merits, therefore, it was to be inferred that the Tribunal was itself not convinced that the appeal should be dismissed as barred by limitation. For the sake of clarity, the observations of the Hon'ble High Court are culled out as under:

"7. Matters relating to condonation of delay are indeed discretionary and are normally left to the Tribunal and this court will not ordinarily interfere with the discretion. In this case, as we have already pointed out, the Tribunal did not stop with the order declining to condone the delay, but considered the matter on the merits and has practically treated the appeal as being properly before it and has answered the question brought before it with reference to the material placed on record. It is, in the circumstances, we hold that the Tribunal was in error in not condoning the delay. The question regarding the correctness of the Tribunal's holding that the delay is not to be condoned is therefore answered in favour of the assessee and against the Revenue."

(emphasis supplied by us)

10. We thus, in terms of our aforesaid observations, are of the firm conviction that as the CIT(A) in the present case before us did not stop with the order declining to condone the delay, but had specifically observed that the appellant's case does not hold good on merit too,

therefore, the only inference that can be drawn by relying on the judgment of the **Hon'ble High Court of Madras in Vijayeswari Textiles Ltd. Vs. CIT (supra)** is that he had impliedly condoned the delay involved in the appeal filed before him. The aforesaid view of the Hon'ble High Court had been respectfully followed by the Tribunal in **Nafees Sultana Vs. The ITO, Ward 14(1, Hyderabad, ITA No.642/Hyd/2025**. In terms of our aforesaid observations, the CIT(A) order, to the extent he had declined to condone the delay, cannot stand when he has simultaneously referred to and approved the observations of the AO regarding the merits of the case. Accordingly, in view of the aforesaid settled position of law, the observation of the CIT(A) to the extent he had refused to condone the delay is set aside.

11. Coming back to the additional evidence filed by the assessee before us, viz. (i). copy of the death certificate of the assessee's husband, viz. Late Shri. M. Rama Chandra Reddy; and (ii). six confirmation letters regarding repayment of cash loans, we are of the view that as these documents are relevant to determine the true nature and source of the cash deposits made in the assessee's bank account during the subject year, therefore, the same merits admission. We, thus, considering the significance of the additional evidence and the fact that the material has not been examined earlier, restore the matter to the file

of the AO for de novo adjudication. The AO shall examine the additional evidence and readjudicate the issue after carrying out necessary verification. Needless to say, the AO shall, in the course of the set aside proceedings, afford a reasonable opportunity of being heard to the assessee.

12. Before parting, we may herein clarify that though we have restored the matter to the file of the AO for re-adjudication, but have not expressed any opinion on the merits of the addition made under section 69A of the Act, which the AO shall remain at liberty to decide in accordance with law.

13. Resultantly, the appeal filed by the assessee is allowed for statistical purpose.

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

Dated: 26th November, 2025

OKK / SPS

Copy to:

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2	Income Tax Officer, Ward-7(1), Hyderabad.
3	The Pr.CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.