

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ  
IN THE INCOME TAX APPELLATE TRIBUNAL  
Visakhapatnam Bench, Visakhapatnam

Before Shri Ravish Sood, Judicial Member  
and  
Shri Balakrishnan S., Accountant Member

आ.अपी.सं /ITA No.422/Viz/2025  
(निर्धारण वर्ष/Assessment Year:2017-18)

Madina Rasool Shaik, Guntur. PAN: AHFPR3787D	Vs.	Income Tax Officer, Ward-1, Guntur.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri S. Rama Rao, Advocate (Hybrid)	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	01/12/2025	
घोषणा की तारीख/Date of Pronouncement:	05/12/2025	

आदेश / ORDER

**PER. RAVISH SOOD, JM :**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax, National Faceless Appeal Centre, Delhi, dated 27/08/2024, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 144 of the Income-tax Act, 1961 (for short, "Act"), dated 21/06/2019, 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 learned CIT (A) is erroneous both on facts and in law;
- 2) The learned CIT (A) erred in deciding the appeal ex-parte without serving the notice physically on the appellant;
- 3) The learned CIT (A) ought to have held that the addition made by the Assessing Officer of Rs.98,90,900/- made u/s 69A is unjust as the deposits made into the bank account represent the amount received as advance for purchase of gold and making of jewellery;
- 4) The learned CIT (A) ought to have taken into consideration the data filed before the Assessing Officer and decided the appeal on merit without deciding the appeal ex-parte.
- 5) Any other ground/grounds that may be urged at the time of hearing”

2. Succinctly stated, the AO based on information available in AIMS module of ITBA, which revealed that the assessee had during the demonetization period made substantial cash deposits in his bank accounts, but had not filed his return of income within the “due date” specified under section 139 of the Act, issued notice under section 142(1) of the Act, dated 23/11/2017. Also, the AO issued a letter, dated 06/06/2019 calling for certain information from the assessee regarding the cash transactions made during the demonetization period.

3. The AO in absence of any response by the assessee proceeded to frame the assessment to the best of his judgment under section 144(1)(b) of the Act. On a perusal of the record, the AO observed that

the assessee during the subject year had made cash deposits aggregating to Rs.98,90,000/- in his bank account, viz., (i) cash deposits during the demonetization period, i.e., 09/11/2016 to 30/12/2016: Rs.92,01,400/-; and (ii) cash deposits during pre and post demonetization period: Rs.6,89,500/-. As the assessee had failed to come forth with any explanation regarding the source of subject cash deposits, therefore, the AO made addition of the entire amount of Rs.98,90,000/- (supra) by treating the same as the assessee's unexplained money under section 69A of the Act.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(A). Ostensibly, the CIT(A) taking cognizance of the fact that the assessee had failed to comply with either of the five notices that were issued to him intimating the fixation of the appeal, thus, for the said reason dismissed the appeal.

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

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

7. Sri S. Rama Rao, Advocate, the Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that the same involves a delay of 244 days. Elaborating on the reason leading to the delay, the Ld. AR submitted that the same had crept in for the reason that the assessee's counsel, viz., Sri J. Nagaraju, who was looking after the income tax matters and appeals during the relevant period was seriously taken seriously unwell, wherein he had lost his eye sight and was not able to work properly, as a result whereof he was compelled to discontinue his profession. The Ld. AR submitted that the assessee had learnt about the order passed by the CIT(A), NAFAC only when he had received a penalty notice from the Department under section 271AAC(1) of the Act, dated 10/06/2025. The Ld. AR to buttress his aforesaid contention had taken us through the affidavit of Sri Madina Rasool, i.e., the assessee, dated 02/07/2025 as well as that of Sri J. Nagaraju (supra), dated 08/10/2025, wherein the said respective persons have deposed the aforesaid facts. Apart from that, the Ld. AR submitted that though the assessee in the memorandum of appeal, i.e., Form-35 had specifically opted out of service of notices/communications from the CIT(A) office through email, but on neither of the occasions any notice intimating the fixation of hearing of the appeal was physically served upon him. The

Ld. AR to buttress his aforesaid contention has taken us through the order of the CIT(A) which revealed that all the notices intimating the fixation of the appeal on five occasions were served through NAFAC module on the ITBA portal. The Ld. AR based on the aforesaid facts submitted that as the delay in filing of the appeal had crept in because of bona fide reasons, therefore, the same in all fairness be condoned.

8. Elaborating further on his contention, the Ld.AR submitted that the failure on the part of the assessee to participate in the proceedings before the CIT(A) was also for the reason that on no occasion he was validly put to notice about the fixation of the appeal. The Ld. AR submitted that as the assessee had suffered the dismissal of the appeal for no fault of his part, therefore, the matter may be restored to the file of the CIT(A) with a direction to readjudicate the same based on a speaking order after affording a reasonable opportunity of being heard to the assessee.

9. Per contra, Dr. Aparna Villuri, the Learned Senior Departmental Representative, relied upon the orders of the authorities below.

10. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record.

11. We have thoughtfully considered the reasons leading to the delay of 244 days in filing of the present appeal and are of a firm conviction that not only the assessee due to the ill health of his tax consultant had remained unaware of the CIT(A) order, but also, we find substance in his contention that despite the fact that he had in Form-35 opted out of service of notice/communications from the CIT(A) office through email, but neither the notices as the CIT(A) order was ever physically served upon him at the address provided at Sl.No.17 of Form-35.

12. Considering the aforesaid facts, we are of the view that the delay involved in filing of the present appeal merits to be condoned.

13. Apropos, the submission of the assessee regarding the reasons for the failure on his part to participate in the proceedings before the CIT(A), we find substance in the same. We say so, for the reason that all the five notices intimating the fixation of the appeal before the CIT(A), i.e., notice dated 26/04/2024, 15/05/2024, 10/06/2024, 26/06/2024 and 04/08/2024 were served upon the assessee/appellant through NFAC module of the ITBA portal, despite the fact that the assessee had in Form-35 specifically opted out of service of notice/communication from the CIT(A) through email. We are of the considered view that now when the assessee had at Sl.No.17 of the memorandum of appeal specifically

provided the address at which he had sought for service of the notices/communications, then there was no justification for the CIT(A) to have forwarded those notices at the email address of the assessee. Our aforesaid view is supported by the “proviso” to Rule 127(2) of the IT Rules, 1962, which contemplates that where the assessee had furnished in writing any other address for the purposes of communication to the income tax authority or any person authorized by such authority issuing the communication, then, the communication shall not be delivered or transmitted to any other address but is mandatorily required to be communicated at the address so provided.

14. Be that as it may, we are of a firm conviction that as the assessee for no fault on his part had remained divested of a sufficient opportunity to participate in the proceedings before the CIT(A) and thus, prosecute his case, therefore, the order passed by the CIT(A) at his back cannot be sustained and is liable to be set aside. Accordingly, we herein set aside the order of the CIT(A) and restore the matter to his file with a direction to re-adjudicate the appeal. Needless to say, the CIT(A) shall during the course of the set aside proceedings afford a reasonable opportunity of being heard to the assessee.

15. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 05<sup>th</sup> December, 2025.

<b>Sd/- (BALAKRISHNAN S.) ACCOUNTANT MEMBER</b>	<b>Sd/- (RAVISH SOOD) JUDICIAL MEMBER</b>
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Hyderabad,  
Dated: 05<sup>th</sup> December, 2025  
OKK / SPS

Copy to:

S.No	Addresses
1	Madina Rasool Shaik, 6-1-165-7, Main Road, Krishna Reddy Complex, Narasaraopet, Guntur, Andhra Pradesh-522601.
2	Income Tax Officer, Ward-1, Narasaraopet, Guntur, Andhra Pradesh-522601.
3	The Pr. Commissioner of Income Tax,
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File

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ITAT, VISAKHAPATNAM