आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री रविश सूद,न्यायिक सदस्य एवं श्री मधुसूदन सावड़िया लेखा सदस्य समक्ष|

Before Shri Ravish Sood, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA Nos. 1016 & 1017/Hyd/2025**
(निर्धारण वर्ष/Assessment Years: 2021-22)

Shri Krishnakumar Manda, MEDCHAL PAN:BMSPM9739D	Vs.	Deputy Commissioner of Income Tax Circle 12(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Phaneendra Nag, CA	
राजस्व द्वारा/Revenue by::	Shri S. Arun Kumar, Sr. DR	
सुनवाई की तारीख/Date of hearing:	11/12/2025	
घोषणा की तारीख/Pronouncement:	19/12/2025	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

Theses appeals are filed by Shri Krishnakumar Manda ("the assessee"), feeling aggrieved by the separate orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 30.01.2016 for the A.Y. 2021-22. Since both the appeals belongs to the same assessee, these are heard together and one consolidated order is being passed for the sake of brevity.

2. At the outset, it is seen that there is a delay of 72 days in filing both the present appeals before the Tribunal, for which the assessee has filed separate condonation petitions supported by affidavits explaining the reasons for the delay. In this regard, the Learned Authorized Representative ("Ld. AR") submitted that the assessee is a salaried person and was not well-acquainted with the income-tax assessment and appellate proceedings. It was further submitted that the assessee was not in touch with any tax consultant who appears regularly before the Tribunal, and therefore, some time was consumed in identifying and engaging a suitable consultant for filing the appeal before this Tribunal. In the said process, the delay of 72 days occurred. It was contended that the delay was neither deliberate nor intentional but was caused due to bona fide reasons beyond the control of the assessee. Accordingly, it was prayed that the delay may be condoned and the appeal be admitted in the interest of justice.

3. Per contra, the Learned Departmental Representative ("Ld. DR") did not raise any serious objection to the condonation of delay and left the matter to the discretion of the Tribunal.

4. After considering the rival submissions and perusing the material available on record, we find that the assessee has shown sufficient cause for the delay in filing the appeal. Further, we find that the Hon'ble Supreme Court, in the case of Vidya Shankar Jaiswal v. CIT (174 taxmann.com 21), has held that a justice-oriented and liberal approach should be adopted while considering applications for condonation of delay. Respectfully following the said principle, we condone the delay of 72 days and admit the appeal for adjudication on merits.

ITA No.1016/Hyd/2025:

5. The assessee has raised the following grounds of appeal:

"1. The Ld. CIT(A) erred in considering the fact that the order passed u/s 250 of the Income Tax Act, 1961, dated 30.01.2025 is erroneous both on facts and in law to the extent the order is prejudicial to the interest of the appellant.

2. The Ld. CIT(A) erred by not giving reasonable opportunity of being heard.

3. The Ld. CIT(A) ought to appreciate the fact that Ld.AO has erred in not following the clauses (xi), (xvi) & (xviii) of Sub section 2 of Section 144B i.e. in not serving the Draft assessment order along with Show Cause notice before finalizing the assessment, which would amount to breach of not only Principles of Natural Justice but also of the action in complete disregard to the Statutory Provision.

4. The Ld. CIT(A) ought to appreciate the fact that Ld.AO erred in not giving proper opportunity of being heard to the appellant in submitting the sources of cash deposits made during the AY 2021-22.
5. The Ld. CIT(A) ought to have appreciated the fact that deposits made during the year are the earlier withdrawals redeposited during the year.

6. The Ld. CIT(A) ought to appreciate the fact the Cash deposits found in A/C. 20086681592 of SBI are from out of the explained sources and as such the addition deserves to be deleted.

7. The Ld. CIT(A) ought to appreciate the fact that Ld.AO erred in not giving proper opportunity of being heard to the appellant in submitting the sources of Cash deposits found in 50100035013519 in the HDFC Bank Ltd are from out of the explained sources and as such the addition deserves to be deleted.

8. The Ld. CIT(A) ought to appreciate the fact that Ld. AO has erred by making addition of 13,20,000 u/s 69 as Unexplained Investment.

9. The Ld. CIT(A) ought to appreciate the fact that the Assessee has purchased a house property for 66,00,000 out of which 52,80,000 is paid from Housing loan availed from LIC Housing Finance Ltd. and the remaining 13,20,000 is

paid out of Assessee's past savings and as such the addition deserves to be deleted.

10. The Ld. CIT(A) ought to appreciate the fact that the Assessee has sufficient funds as on the date of purchase of the said house property.

11. The Ld. CIT(A) ought to appreciate the fact that the assessee has offered income of Rs. 19,80,431/- Cumulatively for last 4 years, which is sufficient for house property remaining payment of Rs.13,20,000/- and as such the addition deserves to be deleted.

12. The Ld. CIT(A) ought to have appreciated the fact that assessee has complied to all the notices issued by responding on time-to-time basis.

13. The Ld. CIT(A) erred in dismissing the appeal on the basis of non-compliance to notices instead of considering the facts of the case that the assessee has complied to the notices.

14. The Ld. CIT(A) ought to appreciate the fact that Ld. AO has not considered the opening balance of cash, previous cash withdrawals and considered whole cash deposits as income.

15. The Ld. CIT(A) erred in confirming the addition made by the A.O amounting to Rs.2,65,000/- by disallowing the claim of deduction under chapter VI A.

16. The Ld. CIT(A) erred in confirming the addition made by the A.O amounting to Rs.2,00,000/- by disallowing the claim of loss from house property u/s 24(b) of the Income Tax Act, 1961.

17. The Ld. CIT(A) erred in confirming the addition as made by A.O of Rs.1,56,500/- as capital gain on sale of immovable property.

18. The Ld. CIT ought to appreciate the fact that Ld. Appellant may add or alter or modify or substitute or delete add or rescind all or any grounds of appeal at any time before or at the time of hearing."

6. The brief facts of the case are that the assessee is an individual who filed his return of income for the Assessment Year 2021–22 on 31.03.2022 declaring a total income of Rs.5,34,420/-.

The case of the assessee was selected for complete scrutiny under CASS and accordingly, notice under section 143(2) of the Income Tax Act, 1961 ("the Act") was issued on 28.06.2022 by the Learned Assessing Officer ("Ld. AO"). However, the assessee did not file any details in response to the said notice. Subsequently, several notices under section 142(1) of the Act were issued by the Ld. AO. Again, the assessee did not comply with any of the statutory notices issued during the assessment proceedings. On the basis of information available on record, the Ld. AO noticed that the assessee had deposited cash of Rs.37,57,400/- in his SBI bank account. Further, on verification of SFT data available on the Insight Portal, the Ld. AO observed that the total cash deposits reported by SBI in the case of the assessee was amounting to Rs.38,02,400/-. In the absence of any explanation or supporting evidence from the assessee, the Ld. AO treated the said cash deposits of Rs.38,02,400/- as unexplained cash credit under section 68 of the Act and added the same to the income of the assessee. The Ld. AO further observed from the Insight Portal that the assessee had purchased an immovable property for a consideration of Rs.66 lakhs during the relevant previous year. A copy of the registered sale deed was obtained by the Ld. AO from the Sub-Registrar by issuing notice under section 133(6) of the Act. On perusal of the sale deed, it was found that the assessee had financed the purchase by availing a housing loan of Rs.52,82,000/- from LIC Housing Finance and the balance amount of Rs.13,20,000/- was paid by the assessee from his own sources. Since no explanation or evidence regarding the source of the said investment was furnished, the Ld. AO treated the amount of Rs.13,20,000/- as unexplained investment under section 69 of

the Act and added the same. The Ld. AO also noticed that the assessee had claimed deduction of Rs.2,60,000/- under Chapter VI-A of the Act and Rs.2,00,000/- under section 24(b) of the Act. In the absence of any supporting documentary evidence, the Ld. AO disallowed both the claims and added the same to the income of the assessee. Further, the Ld. AO noticed that the assessee had sold an immovable property on 06.05.2020 for a consideration of Rs.3,13,000/- jointly with Shri Praveen Kumar Manda. As no details regarding cost of acquisition were furnished, the Ld. AO brought to tax 50% of the sale consideration amounting to Rs.1,56,500/- as capital gains in the hands of the assessee. Accordingly, the assessment was completed by the Ld. AO under section 144 r.w.s. 144B of the Act on 27.12.2022 determining the total income of the assessee at Rs.62,73,320/-.

7. Aggrieved with the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A). With regard to the addition of Rs.38,02,400/-, before the Ld. CIT (A) the assessee submitted that the cash deposits were made out of cash withdrawals from his bank account. However, the Ld. CIT(A) recorded a categorical factual finding that no such cash withdrawals were made by the assessee during the relevant period. Accordingly, the Ld. CIT(A) confirmed the addition, though the section of applicability was modified from section 68 to section 69A of the Act. As regards the addition of Rs.13,20,000/-, before the Ld. CIT (A) the assessee submitted that he had disclosed total income of Rs.19,80,431/- from Assessment Years 2016-17 to 2021-22 and that the savings from such income were utilized for making the investment. However, since no year-wise details, cash-

flow statement, or evidence of accumulation of savings were produced, the Ld. CIT(A) held that the explanation was unsubstantiated and confirmed the addition. With respect to the disallowance of deduction under Chapter VI-A amounting to Rs.2,60,000/- and deduction under section 24(b) amounting to Rs.2,00,000/-, the assessee produced supporting documents for the first time before the Ld. CIT(A). Accordingly, these two issues were set aside by the Ld. CIT (A) to the file of the Ld. AO for verification and adjudication in accordance with law. Similarly, in respect of the addition of Rs.1,56,500/- under the head "Capital Gains", the Ld. CIT(A) set aside the issue to the file of the Ld. AO with a direction to verify the cost of acquisition and allow deduction as per law. Thus, the Ld. CIT(A) partly allowed the appeal of the assessee.

8. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. The Ld. AR submitted that the assessee could not produce evidence before the Ld. AO due to some unavoidable reasons and prayed that one more opportunity be granted by remanding the issues relating to additions of Rs.38,02,400/- and Rs.13,20,000/- to the file of the Ld. AO. It was submitted that the assessee is now in a position to produce necessary cash-flow statements and other supporting documents. As regards the disallowance of deductions under Chapter VI-A, section 24(b), and addition of capital gains of Rs.1,56,500/-, the Ld. AR submitted that all relevant documents were produced before the Ld. CIT(A), therefore, the Ld. CIT (A) ought to have deleted the additions instead of remanding to the Ld. AO. Accordingly, the Ld. AR prayed before the Bench to delete the

addition as regards the disallowance of deductions under Chapter VI-A, section 24(b), and addition of capital gains of Rs.1,56,500/-.

9. Per contra, the Ld. DR strongly relied on the orders of the lower authorities and submitted that the assessee was non-compliant throughout the assessment proceedings before Ld. AO. He further submitted that with regard to additions of Rs.38,02,400/- and Rs.13,20,000/-, the assessee could not substantiate his claim by filing adequate evidence before the Ld. CIT (A). The assessee also failed to produce any supporting evidence with regard to additions of Rs.38,02,400/- and Rs.13,20,000/- before the Tribunal also. Therefore, the additions of Rs.38,02,400/- and Rs.13,20,000/- are liable to be upheld. As far as the disallowance of deductions under Chapter VI-A, section 24(b), and addition of capital gains of Rs.1,56,500/- is concerned, the assessee could not produce the relevant evidence before the Ld. AO. However, the assessee produced the evidence first time before the Ld. CIT (A). Therefore, there is no infirmity in the order of the Ld. CIT (A) in remanding the issue to the file of the Ld. AO for verification. Finally, the Ld. DR prayed before the Bench to uphold the order of the Ld. CIT (A).

10. We have carefully considered the rival submissions and perused the material available on record. As regards the addition of Rs.38,02,400/- on account of cash deposits, it is an admitted fact that the assessee did not comply with any of the notices issued by the Ld. AO. Before the Ld. CIT(A), the assessee took a plea that the cash deposits were made out of cash withdrawals from Bank. In this regard, we have gone through para

nos. 8.2 and 8.3 of the order of the Ld. CIT (A), which is to the following effect:

8.2 During the course of appellate proceedings, the appellant submitted a reply in this regard (as seen in Para 2) . In the reply the core argument of the appellant is that the AO has treated the cash deposits as income without having any conclusive evidence. The appellant has argued that these cash deposits were made out of cash withdrawals made during the year and these withdrawals were made due to unforeseen circumstances. The appellant has claimed that during the year he had made cash deposits of Rs 26,42,700/- and cash withdrawal of Rs 21,94,270/- and thus the source of cash has been explained.

8.3 In this regard, the copies of the bank statement of HDFC Account no.50100035013519 & SBI Account No 20086681592. submitted by the appellant had been carefully perused and the following observations were made

1. It is perused that the in the SBI Bank Account, the appellant had deposited cash on the following dates

Date of deposit of cash in SBI BanK Account	Amount Deposited in Rupees
29.07.2020	4,00,000
30.07.2020	1,00,000
31.07.2020	2,00,000
03.08.2020	2,00,000
04.08.2020	1,20,000
17.09.2020	5,00,000

29.09.2020	30,000
03.10.2020	2,00,000
5.11.2020	3,00,000
10.11.2020	7,52,900
12.11.2020	2,00,000
16.12.2020	52,000
4.01.2021	3,30,000
12.02.2021	2,30,000
12.02.2021	1,00,000
16.02.2021	56,000

1. Perusal of these bank statements reveals that that prior to depositing these mentioned amounts on the above-mentioned dates, no withdrawal of cash had been made by the appellant in either the SBI Account or HDFC Bank Account during the entire year under consideration. Thus, the argument of the appellant that these deposits are a part of his earlier withdrawal remain unproved and thus the statement made by the appellant is not supported by the documents.
2. The primary onus is on the appellant to submit evidences regarding the source of cash deposits which the appellant failed to discharge.
3. It is perused from the assessment order that the AO has made the addition under Section 68 of the IT Act, which applies to

unexplained cash credits in books of account. In the present case, the addition pertains to unaccounted cash deposited directly in the bank account and the correct applicable section should have been Section 69A of IT Act, which deals specifically with unexplained money found in possession of the appellant. In this regard it is relevant to reproduce the provisions of the Act.

4. The huge cash deposit made by the appellant despite being only a salaried employee raises doubt about the source of the deposits. Further, the appellant has failed to explain the source of the said cash deposit.

11. On perusal of the above, we find that the Ld. CIT(A) has given a clear factual finding that no such cash withdrawals were made by the assessee during the year from his bank account. Even before us, the assessee has not produced any evidence to controvert the said finding. Mere request for remand without placing any material on record cannot be accepted. Accordingly, we find no infirmity in the confirmation of the addition by the Ld. CIT (A).

12. With regard to the addition of Rs.13,20,000/- towards unexplained investment, the assessee again remained non-compliant before the Ld. AO. Before the Ld. CIT(A), though the assessee claimed that the investment was made out of past savings, no cash-flow or fund-flow statement was furnished. Even before this Tribunal, no supporting working or documentary evidence has been produced. Therefore, in our considered view, the addition has been rightly confirmed by the Ld. CIT (A).

13. As regards the disallowance of deduction under Chapter VI-A of Rs.2,60,000/-, deduction under section 24(b) of

Rs.2,00,000/- and addition of capital gains of Rs.1,56,500/-, we note that the assessee produced evidences for the first time before the Ld. CIT(A). In such circumstances, the Ld. CIT(A) has rightly set aside these issues to the file of the Ld. AO for verification. The principles of natural justice require that the Ld. AO be given an opportunity to examine the evidences. Accordingly, we do not find any infirmity in this approach of the Ld. CIT (A).

14. In view of the above discussion, we do not find any infirmity in the order passed by the Ld. CIT(A). Accordingly, we uphold the order of the Ld. CIT (A).

15. In the result, the appeal filed by the assessee in ITA No. 1016/Hyd/2025 is dismissed.

ITA No.1017/Hyd/2025:

16. The assessee has raised the following grounds of appeal:

> *"1. The Ld. CIT(A) erred in dismissing the appeal vide his order u/s 250 of the Act on 30-01-2025 against the Penalty order u/s 271AAC(1) of the Act passed on 30-01-2025 by the AO which is prejudicial to the interest of the Appellant to the extent both on facts and in law.*
>
> *2. The Ld.CIT(A) ought to have considered that the AO failed to consider the cash credits of Rs.38,02,400/- as cash deposits from past withdrawals and provisions of sec.68 of the Act are not applicable and therefore the penal provisions u/s 271AAC(1) are not applicable in the case of the appellant.*
>
> *3. The Ld. CIT(A) ought to have considered that the AO failed to consider the purchase of House property as genuine purchase through Rs. 52,80,000/- of Housing loan and Rs. 13,20,000/- of Accumulated savings over the years and provisions of sec.69 of the Act are not applicable and therefore the penal provisions u/s 271 AAC(1) are not applicable in the case of the appellant.*

4. The Ld. CIT(A) ought to have considered that the AO erred in considering the Accumulated savings of the Assessee of Rs. 13,20,000/- as unexplained investment u/s 69A and therefore the penal provisions u/s 271 AAC(1) are not applicable in the case of the appellant.

5. The Ld. CIT(A) ought to have considered that the appellant did not have any unexplained money and hence the levy of penalty u/s 271AAC(1) of the Act of Rs. 3,99,547/- is not sustainable and bad in law.

6. The Ld. CIT(A) ought to have considered that the AO has not provided proper opportunity of being heard to the appellant before passing the penalty order u/s 271AAC(1) of the Act on 30-01-2025 wherein the provisions of Sec 274(1) and 275 of the Act are clearly attracted.

7. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal."

17. The brief facts of the case are that during the assessment proceedings for the Assessment Year 2021–22, the Ld. AO had made an addition of Rs.38,02,400/- on account of cash deposits, initially treating the same as unexplained cash credit under section 68 the Act. However, the Ld. CIT(A) held that the said addition was correctly assessable under section 69A of the Act as unexplained money and accordingly confirmed the same. The Ld. AO had also made a further addition of Rs.13,20,000/- on account of unexplained investment under section 69 of the Act. Subsequently, the Ld. AO initiated penalty proceedings under section 271AAC of the Act on account of both the additions of Rs.38,02,400/- and Rs.13,20,000/-. During the penalty proceedings the assessee did not comply with any of the notices issued by the Ld. AO. Accordingly, the Ld. AO passed an order dated 27.06.2023 under section 271AAC(1) of the Act, levying a penalty of Rs.3,99,547/-.

18. Aggrieved with the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A), who confirmed the penalty levied by the Ld. AO.

19. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. Before us, the only submission of the Ld. AR was that the penalty appeal may be restored to the file of the Ld. AO along with the quantum appeal in ITA No.1016/Hyd/2025 for reconsideration of the issue.

20. Per contra, the Ld. DR relied upon the orders of the lower authorities.

21. We have considered the rival submissions and perused the material available on record. At the outset, it is pertinent to note that in ITA No.1016/Hyd/2025, we have confirmed both the additions of Rs.38,02,400/- on account of cash deposits and Rs.13,20,000/- on account of unexplained investment under section 69 of the Act. The only issue before us to decide whether penalty under section 271AAC is leviable on the said additions or not. In this regard, we have gone through the provisions contained under section 271AAC of the Act, which is to the following effect:

> *"**271AAC.** (1) The Assessing Officer [25][or [26][the Joint Commissioner (Appeals) or] the Commissioner (Appeals)] may, notwithstanding anything contained in this Act other than the provisions of section 271AAB, direct that, in a case where the income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69 C or section 69D for any previous year, the assessee shall pay by way of penalty, in addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (i) of sub-section (1) of section 115BBE:*
>
> ***Provided** that no penalty shall be levied in respect of income referred to*

in section 68, section 69, section 69A, section 69B, section 69 C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.

(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.]"

22. On perusal of section 271AAC(1) of the Act, we find that where the income determined includes income referred to in sections 68, 69, 69A, 69B, 69C or 69D of the Act, the assessee shall be liable to pay penalty at the rate of ten per cent of the tax payable under section 115BBE of the Act. The language employed by the legislature is mandatory and leaves no discretion with the Ld. AO once such income is brought to tax. The only immunity from levy of penalty is provided in the first proviso to section 271AAC(1), which requires that the assessee must have included such income in the return of income furnished under section 139 of the Act and must have paid the tax under section 115BBE of the Act on or before the end of the relevant previous year. In the present case, it is an admitted position that the assessee did not offer the impugned income in the return of income filed under section 139 of the Act and, therefore, does not fulfil the conditions prescribed in the proviso. We further observe that the provisions of section 273B of the Act, which provide relief from penalty on the ground of reasonable cause, do not include penalty leviable under section 271AAC of the Act. Therefore, in our considered view, once the addition under the family of section 68 of the Act is made and

sustained, and the conditions of the proviso are not satisfied, the levy of penalty under section 271AAC of the Act becomes automatic and mandatory. In view of the present facts and the clear statutory mandate, we do not find any infirmity in the orders passed by the Ld. AO and confirmed by the Ld. CIT(A). Accordingly, the penalty levied under section 271AAC(1) of the Act is upheld.

23. In the result, the appeal filed by the assessee in ITA No. 1017/Hyd/2025 is dismissed.

24. To sum up, both the appeals of the assessee are dismissed.

Order pronounced in the Open Court on 19th December 2025.

Sd/-	Sd/-
(RAVISH SOOD) **JUDICIAL MEMBER**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 19th December 2025

Vinodan/sps

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3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order