

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

Before Shri Manjunatha G., Accountant Member
and

Shri Ravish Sood, Judicial Member

(Hybrid Hearing)

आ.अपी.सं /**ITA No.1260/Hyd/2024**

(निर्धारण वर्ष/Assessment Year:2014-15)

Mumtaz Ali Mohd, Hyderabad. PAN: ABPPM6593E	Vs.	Income Tax Officer, Ward-8(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri S. Rama Rao, Advocate	
राजस्व द्वारा/Revenue by:	Shri K. Vonoth Kannan, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	06/01/2026	
घोषणा की तारीख/Date of Pronouncement:	09/01/2026	

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 09/01/2024, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 147 r.w.s 144B of the Income Tax Act, 1961 (for short, "the Act"), dated 12/05/2023 for the Assessment Year (AY) 2014-15. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

- “1) The order of the learned CIT(A) is erroneous both on facts and in law;
- 2) The learned CIT(A) erred in confirming the order of assessment made by the Assessing Officer without considering the facts on record.
- 3) The Learned CIT(A) ought to have seen that the re-opening of the assessment year 2014-15 is bad in law and the assessment made is not justified
- 4) The learned CIT(A) erred in confirming the addition made of Rs. 2,97,84,910/- made by the assessing Officer u/s 68 of the I.T Act when the deposits made are from out of nosiness activity carried on by the appelland and when the turnover of the appelland was Rs. 3,59,18,339/-
- 5) The learned CIT(A) ought to have provided opportunity before deciding the appeal
- 6) Any other ground/grounds that may be urged at the time of hearing.”

2. Also, the assessee has raised 3 additional grounds of appeal, which read as under:

- “1) The assessment order dated 12.05.2023 for the assessment year 2014-15 is not valid as the notice u/s 148 dated 31.07.2022 is issued after a period of 6 years;
- 2) The notice is invalid also for the reason that the Income Tax Officer, Ward-8(1), Hyderabad issued notice u/s 148A(b); order u/s 148A(d) and notice u/s 148 and he has no jurisdiction to issue such notice.
- 3) The order of assessment is invalid as the notice was not issued within the time and was issued by an officer who has no jurisdiction to do so.”

3. As the assessee by raising the aforesaid additional grounds of appeal has sought our indulgence for adjudicating a legal issue which would not require looking any further beyond the facts available on record, therefore, we have no hesitation in admitting the same. Our

aforesaid view is fortified by the judgment of the **Hon'ble Supreme Court** in the case of **National Thermal Power Company Ltd. Vs. CIT (1998) 229 ITR 383 (SC)**.

4. Succinctly stated, the AO based on information that the assessee during the subject year had made cash deposits of Rs.2.93 crores (approx.), but had not filed his return of income, initiated proceedings under section 147 of the Act. Notice under section 148 of the Act, dated 30/07/2022 was issued by the AO. In compliance, the assessee had filed his return of income for AY 2014-15 on 14/08/2022, declaring an income of Rs.4,42,610/-.

5. During the course of the assessment proceedings, the AO observed that the assessee in his Profit & Loss account that was filed along with his return of income had disclosed gross receipts of Rs.3,59,18,339/-. The AO to verify the business transactions of the assessee, called upon him to furnish the details of the registers maintained regarding sales/purchases, stock register, cash book, ledger accounts, VAT/Sales Tax/GST return, bank statements, bills and vouchers of the expenses claimed in Profit & Loss account, details of sundry creditors, etc. However, the assessee failed to comply with the aforesaid direction of the AO and did not furnish the requisite details as

were called for by the AO. Accordingly, the AO observed that the assessee had failed to come forth with an explanation regarding the source of the cash credits/deposits of Rs. 2,93,42,300/- made during the subject year in his bank account with Jammu & Kashmir Bank. However, the assessee at the fag end of the assessment proceedings though filed before the AO copies of ledger account of expenses, sales and purchases, vouchers etc., but failed to furnish the Sales Tax/VAT/GST return, stock register, cash book and the details of the sundry creditors. The AO held a conviction that as the assessee had failed to produce copies of the Sales Tax return, GST return, therefore, the gross sales/turnover disclosed by him in his return of income was nothing but bogus. Accordingly, the AO vide his show cause notice (SCN), dated 25/04/2023 called upon the assessee to explain as to why the cash deposits of Rs.2.93 crores (approx.) made in his bank account with Jammu & Kashmir Bank may not be treated as his escaped income. In reply, the assessee, inter alia, submitted before the AO that he was engaged in textile business since his childhood and had failed to file his return of income due to certain family problems.

6. The AO taking cognizance of the fact that the assessee had failed to substantiate his claim of having carried out business activity, observed that the tax audit report, dated 31/03/2022 (after due date) was filed by

the assessee only with the purpose of minimizing his profit component and to divert huge cash deposits to business activities. The AO based on his deliberations, rejected the assessee's claim of having made sales turnover of Rs.3.59 crores (approx.) as disclosed in the return of income and made an addition of the entire amount of cash deposits of Rs.2.93 crores (supra) by treating the same as unexplained cash credits under section 68 of the Act. Accordingly, the AO vide his order under section 147 r.w.s 144B of the Act, dated 12/05/2023 determined the income of the assessee at Rs.2,97,84,910/-.

7. Aggrieved, the assessee carried the matter in appeal before the CIT(A). As the assessee despite having been given 5 opportunities, had failed to participate in the proceedings before the CIT(A), therefore, the latter holding a conviction that the assessee was not interested in prosecuting the appeal on merits, dismissed the appeal.

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

9. We have heard the Learned Authorized Representatives of both parties, perused the orders of the authorities below and the material available on record as well as considered the judicial pronouncements

that have been pressed into service by the Ld. AR to drive home his contentions.

10. Shri S. Rama Rao, Advocate, Learned Authorized Representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of the appeal submitted that the present appeal involved a delay of 247 days. The Ld. AR had drawn our attention to the petition filed by the assessee seeking condonation of the delay involved in filing the present appeal along with a supporting affidavit, dated 29/11/2025 of the assessee. Elaborating on the reasons leading to the delay in filing of the appeal, the Ld. AR submitted that the same had crept in for the reason that the notices of hearing intimating the fixation of the appeal were dropped in the email Id of the assessee's counsel and the assessee had remained totally unaware about the same. The Ld. AR fairly submitted that as the assessee's counsel at the relevant point of time was busy in filing of the returns of income/audits, therefore, the notices intimating the fixation of the appeal had escaped his attention. The Ld. AR submitted that the assessee being an illiterate person had remained unaware of the online proceedings and procedures involved in appeal proceedings and was totally dependent on his tax consultant regarding his income-tax matters. Apart from that, the Ld. AR submitted that the assessee at the relevant point of time was going through a difficult phase as his family had

suffered the death of his son-in-law at an age of 45 years leaving behind his daughter and two children who thereafter were dependent upon him. The Ld. AR submitted that the assessee's counsel had gathered about the order of the CIT(A) only when he had opened the income-tax portal of the assessee for filing his return of income for AY 2024-25 on 25/11/2024. The Ld. AR submitted that the assessee on learning about the disposal of his appeal had without any further loss of time entrusted the matter to a senior tax consultant who had thereafter prepared the appeal and filed the same with the Tribunal on 03/12/2024, which by the time involved a delay of 247 days. The Ld. AR submitted that as the delay in filing of the present appeal was not prompted by any mala fide reason or lackadaisical approach of the assessee, but due to certain reasons beyond his control, therefore, considering the totality of the facts involved, the delay in filing the same in all fairness and in the interest of justice be condoned.

11. Per contra, Shri V. Vinoth Kannan, Learned Senior Departmental Representative (for short, "Ld. Sr.DR") objected to the seeking of condonation of delay in filing of the present appeal.

12. We have given thoughtful consideration to the facts leading to the delay in filing the present appeal before us. In our view, considering the

totality of the facts which had led to the delay in filing the present appeal, there is a substance in the assessee's claim that the same had occasioned for bona fide reasons and not due to any lackadaisical approach on his part. We thus, are of a firm conviction that in the totality of the facts involved in the present case, the delay therein involved merits to be condoned. Our aforesaid view that a liberal approach should be taken while considering an application seeking condonation of delay is supported by the judgment of the **Hon'ble Supreme Court** in the case of **Vidya Shankar Jaiswal vs. The Income Tax Officer, Ward-2, Ambikapur in Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31st January, 2025**. The Hon'ble Apex Court while setting aside the order of the Hon'ble High Court of Chhattisgarh, which had approved the declining of the condonation of delay of 166 days by the Income-Tax Appellate Tribunal, Raipur Bench, had observed, that a justice-oriented and liberal approach should be adopted while considering the application filed by an appellant seeking condonation of the delay involved in filing the appeal. We thus, in terms of our aforesaid observations, condone the delay involved in the filing of the present appeal.

13. Coming to the merits of the case, we find that the CIT(A) had dismissed the appeal for standalone reason that the assessee despite

having been afforded 5 opportunities, i.e., vide notices dated 04/10/2023, 20/10/2023, 08/11/2023, 24/11/2023 and 18/12/2023 had failed to participate in the proceedings before him, which, thus revealed that he was not interested to prosecute the appeal on merits. Although, we concur with the CIT(A) that on a failure on the part of the assessee appellant to participate in the appellate proceedings, the same cannot be stalled and have to be proceeded with, but at the same time are unable to persuade ourselves to concur with the manner in which the present appeal has been disposed of by the CIT(A). We say so, for the reason that the CIT(A) without addressing the specific grounds of appeal based on which the validity of the jurisdiction assumed by the AO for initiating the impugned proceedings under section 148 of the Act as well as the merits of the case, had simplicitor dismissed the appeal for the reason that the assessee had failed to participate and prosecute the same. In our view, the CIT(A) ought to have addressed the specific grounds based on which the impugned order of assessment was assailed by the assessee and ought not to have summarily dismissed the appeal for want of prosecution. Our aforesaid view is fortified by the judgment of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**. The Hon'ble High Court in the aforementioned case had observed as under:

"8. From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Sec. 251(1)(a) and (h) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-s. (2) of s. 251 of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under s. 246A of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non- prosecution of the appeal by the assessee. This is amply clear from the s. 251(1)(a) and (b) and Explanation to Sec. 251(2) of the Act which requires the CIT(A) to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act."

14. We thus, in terms of our above observations, set aside the matter to the file of the CIT(A) with a direction to readjudicate the appeal after affording a reasonable opportunity of being heard to the assessee. Also, we may herein observe that the CIT(A) shall in the course of the set

aside proceedings adjudicate the additional grounds of appeal that have been raised by the assessee and admitted by us herein above.

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 09th January, 2026.

Sd/- (MANJUNATHA G.) ACCOUNTANT MEMBER	Sd/- (RAVISH SOOD) JUDICIAL MEMBER
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Hyderabad,
Dated: 09th January, 2026.
OKK / SPS

Copy to:

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2	Income Tax Officer, Ward-8(1), Signature Towers, Hyderabad, Telangana.
3	The Pr. CIT, Hyderabad
4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.