

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH : VISAKHAPATNAM AT
HYDERABAD**

[THROUGH HYBRID HEARING]

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA Nos.495 to 498/VIZ./2025**
Assessment Years 2018-2019 & 2019-2020

Gajullanka Primary Agriculture Co-Op Society,Avulavaripalem, Kolluru Mandal, Guntur District – 522 324. PAN BGAPM1891G	vs.	The Income Tax Officer, Ward-1, TENALI. PIN – 522 201. State of Andhra Pradesh
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Sri C Subrahmanyam, CA [Hybrid Mode]	
राजस्व द्वारा / Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख / Date of hearing:	22.01.2026	
घोषणा की तारीख / Pronouncement:	22.01.2026	

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT:

These four appeals of the Assessee are directed against the four separate Orders of the learned CIT(A) arising from the assessment orders passed by the Assessing Officer

u/sec.144 r.w.s.144B of the Income Tax Act [in short "the Act"], 1961 for the assessment year 2018-2019 and penalty order passed u/sec.270A of the Act for the assessment years 2018-2019 and 2019-2020 as well as the penalty u/sec.271AAC(1) for the assessment year 2019-2020.

ITA.No.495/VIZ./2025 – A.Y. 2018-2019:

2. The assessee has raised the following grounds:
 1. *“That under the facts and circumstances of the case the order passed u/s 270A of the IT Act dt:10.09.2024 that was upheld by the Ld. CIT(A) NFAC vide order passed u/s 250 of the IT Act dt: 26.06.2025 is not in accordance with facts of the case and provisions of law.*
 2. *The Learned CIT(A) has erred in dismissing the appeal in limine without condoning the delay by 65 days, ignoring the bonafide reasons and medical evidence submitted by the appellant, and failed to appreciate that the delay was due to unforeseen medical emergency of the Secretary of the rural Co-operative Society, constituting sufficient cause under Section 249(3) of the Act.*
 3. *The Learned CIT(A) erred in dismissing the appeal purely on technical grounds without affording an opportunity to adjudicate the matter on merits, thereby violating the principles of natural justice.*
 4. *Without prejudice to ground no 2-4 the Ld. CIT(A) is not correct in levying penalty u/s 270A of the IT Act in as much as there was no underreporting of income since the claim of the assessee is a legal*

claim; such claim was made in the return filed in response to notice u/s 148, this way there was no underreporting of income arising out of the return of income filed.

5. *The appellant submits that for these and other reasons to be urged during the hearing, the orders passed u/s 250 of the IT Act are liable to be set aside.”*

ITA.No.496/VIZ./2025 – A.Y. 2018-2019:

3. The assessee has raised the following grounds:
 1. *“That under the facts and circumstances of the case the order passed u/s 147 r.w.s. 1448 of the IT Act dt:02.03.2024 that was upheld by the Ld. CIT(A) NFAC vide order passed u/s 250 of the IT Act dt: 26.06.2025 is not in accordance with facts of the case and provisions of law.*
 2. *The Ld. CIT(A) has grossly erred in law and on facts in refusing to condone the delay of 257 days in filing the appeal, despite the fact that the appellant clearly explained the cause of delay supported by cogent and credible evidence in the form of a medical certificate and a sworn affidavit. :*
 3. *The Ld., CIT(A) has erred in summarily dismissing the appeal without admitting it and without appreciating the fact that the delay was neither deliberate nor due to negligence, but was due to bona fide reasons beyond the appellant's control. In doing so, the Ld. CIT(A) has failed to adhere to the principles laid down by the Hon'ble Supreme Court in Collector, Land Acquisition v. Mst. Katiji & Ors [1987] 167 ITR 471 (SC), wherein it has been held that substantial justice should not be defeated on technical grounds.*

4. *The Ld. CIT(A) ought to have appreciated that the appellant has raised legal and factual grounds in relation, to the assessment order passed u/s: 147 r.w.s. 144B on dt. 02.03.2024, if considered on merits, the appellant would get substantial relief. The Ld. CIT(A) has failed to apply his mind to these grounds and dispose of them accordingly.*
5. *The appellant respectfully submits that in the interest of justice, the Hon'ble Tribunal may be pleased to set aside the order of the Ld. CIT(A) and remand the matter back to the file of the CIT(A) with a direction to condone the delay, admit the appeal and adjudicate the same on merits in accordance with law.*
6. *The appellant craves leave to add, alter, amend or withdraw any of the above grounds at the time of hearing.”*

ITA.No.497/VIZ./2025 – A.Y. 2019-2020:

4. The assessee has raised the following grounds:
 1. *“That under the facts and circumstances of the case the order passed u/s 271AAC (1) of the IT Act dt:29.08.2024 that was upheld by the Ld. CIT(A) NFAC vide order passed u/s 250 of the IT Act dt: 26.06.2025 is not in accordance with facts of the case and provisions of law.*
 2. *The Learned CIT(A) has erred in dismissing the appeal in limina without condoning the delay by 77 days, ignoring the Bonafide reasons and medical evidence submitted by the appellant, and failed to appreciate that the delay was due to unforeseen medical emergency of the Secretary of the rural Co-operative Society, constituting sufficient cause under Section 249(3) of the Act.*
 3. *The Learned CIT(A) erred in dismissing the appeal purely on technical grounds without affording an opportunity to adjudicate*

the matter on merits, thereby violating the principles of natural justice.

4. *Without prejudice to ground no 2 to 4 the Ld. CIT(A) is not correct in levying penalty u/s 271AAC (1) of the IT Act.*
5. *The Id. CIT(A) ought to have known that the subject quantum amount on which penalty was levied u/s 271AAC (1) has already been subjected to penalty u/s 270A of the IT Act, therefore, considering the provisions of sub section (2) of section 271AAC, the subject penalty is liable to be quashed.*
6. *Without prejudice to Ground No. 2 to 6, the learned CIT(A) erred in invoking Section 271AAC (1) on grounds of alleged unexplained cash deposits, as the quantum appeal regarding the addition u/s 69A is still under contest. Given the pendency of this appeal, the provisions of Section 271AAC (1) could not have been validly invoked until the final determination of the quantum appeal.*
7. *The appellant submits that for these and other reasons to be urged during the hearing, the impugned order is liable to be set aside.*

ITA.No.498/VIZ./2025 – A.Y. 2019-2020:

5. The assessee has raised the following grounds:
 1. *“That under the facts and circumstances of the case the order passed u/s 270A of the IT Act dt:12.08.2024 that was upheld by the Ld. CIT(A) NFAC vide order passed u/s 250 of the IT Act dt: 26.06.2025 is not in accordance with facts of the case and provisions of law.*
 2. *The Learned CIT(A) has erred in dismissing the appeal in limine without condoning the delay by 94 days, ignoring the bonafide reasons and medical evidence submitted by the appellant, and failed to appreciate that the delay was due to unforeseen medical*

emergency of the Secretary of the rural Co-operative Society, constituting sufficient cause under Section 249(3) of the Act.

3. *The Learned CIT(A) erred in dismissing the appeal purely on technical grounds without affording an opportunity to adjudicate the matter on merits, thereby violating the principles of natural justice.*
4. *Without prejudice to ground no 2-4 the Ld. CIT(A) is not correct in levying penalty u/s 270A of the IT Act in as much as there was no underreporting of income since AO disallowed expenditure by 10% from out of the total expenses. This way, disallowing expenditure on ad hoc basis does not amount to under report of income causing invoking provisions of section 270A of the IT Act.*
5. *The appellant submits that for these and other reasons to be urged during the hearing, the orders passed u/s 250 of the IT Act are liable to be set-aside.”*

6. At the time of the hearing, the learned Authorised Representative of the Assessee has submitted that all the four appeals of the assessee were dismissed by the learned CIT(A) in limine being barred by limitation. The learned CIT(A) has declined to condone the delay of 257 days in filing the appeals. He has referred to the petition for condonation of delay which is also reproduced by the learned CIT(A) in the impugned orders, a copy of which, is also filed for the convenience of the Bench and submitted that the assessee has explained the cause of delay as the assessee is a Primary

Agriculture Co-Op Society engaged in the activities in the rural areas. All the Members of the assessee society are from rural background including the office bearers who are not well educated and familiar with the Income Tax procedures specifically the procedure of online filing of the appeals. Therefore, the assessee society was totally dependent on the Income Tax Consultant for the tax matters. He has further submitted that the Secretary of the Society who was handling the financial and daily administrative matters met with a serious road accident on 28.03.2024 and sustained fracture injuries to his right-hand elbow and left ankle and therefore, he was undisposed due to the injuries. Being a diabetic patient, he was also advised to strict bed rest for six weeks by the Doctor and thereafter regular physiotherapy and medical check-ups. The learned Authorised Representative of the Assessee has submitted that due to these circumstances and particularly, the medical emergency of the Secretary of the Society, the assessee could not file the appeal intime and even after getting the treatment the matter of filing the appeal completely slipped out of the mind for some time. Only in the

month of December the assessee society received a call from the Income Tax Department regarding the tax demand, the assessee realized that the appeals were yet to be filed and accordingly took necessary steps for filing the appeals before the learned CIT(A). The learned Authorised Representative of the Assessee has submitted that the appeals were finally filed on 14.12.2024 after a delay of 257 days which was explained before the learned CIT(A). However, the learned CIT(A) declined to condone the delay. He has thus, prayed that since the appeals of the assessee were dismissed in limine and not decided on merits, the delay in filing the appeals before the learned CIT(A) may be condoned so that the matters may be adjudicated on merits. He has relied upon the Judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs., MST Katiji [1987] 167 ITR 471 (SC).

7. On the other hand, the learned DR has objected to the condonation of delay and submitted that the assessee has failed to explain the 'sufficient cause' for the delay of 257 days in filing the appeals before the learned CIT(A). The learned CIT(A) has considered the reasons explained by the assessee

but the same were not found to be sufficient to explain the inordinate delay in filing the appeals. The learned DR has relied upon the Orders of the learned CIT(A).

8. We have considered the rival submissions as well as the relevant material on record. The Assessing Officer has passed the assessment order u/sec.147 r.w.s.144B of the Income Tax Act [in short "the Act"], 1961 on 02.03.2024 whereby the claim of deduction u/sec.80P(2) of the Act as claimed by the assessee in the return of income filed in response to notice u/sec.148 of the Act was denied by the Assessing Officer on the ground that as per sec.80AC of the Act, the deduction cannot be allowed unless the return is furnished u/sec.139(1) of the Act. The assessee challenged the action of the Assessing Officer before the learned CIT(A) however, due to the delay in filing the appeals, the learned CIT(A) has dismissed the appeals of the assessee in limine and not decided the issue on merits. The assessee explained the cause of delay of 257 days before the learned CIT(A) in the petition for condonation of delay which was supported by the affidavit of the Secretary of the Assessee-Society along with

Medical Certificate. The learned CIT(A) has declined to condone the delay on the ground that the assessee was advised to bed rest for six weeks after the accident and the said period of six weeks expired in mid-May 2024, whereas the appeals were filed on 14.12.2024. The learned Authorised Representative of the Assessee has pointed out that as per clause-(ii) of sec.80AC the deduction u/sec.80P can be disallowed only from 01.04.2018 onwards and therefore, the said clause is not applicable for the assessment year under consideration. Thus, the issue raised by the assessee on merits goes to the root of the matter, but the same has not been adjudicated by the learned CIT(A). After considering the reasons explained by the assessee in the petition along with the medical certificate, we are of the considered view that while deciding the matter of condonation of delay, a liberal view ought to have been taken so that the matter could be decided on merits instead of throwing away the same on technicalities as held by the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. MST. Katiji (supra). Accordingly, in the facts and circumstances of the case, by

taking a liberal view, we condone the delay of 257 days in filing all the four appeals before the learned CIT(A) subject to cost of Rs.2000/- [Rs. Two Thousand Only] for each appeal, in total Rs.8000/- [Rs. Eight Thousand Only] for four appeals to be paid to Prime Minister's National Relief Fund within a period of one month from the date of this order.

9. We have heard the learned Authorised Representative of the Assessee and the learned DR. In the quantum appeal the assessee has raised the issue of validity of notice u/sec.148 issued by Jurisdictional Assessing Officer [in short "JAO"] as well as claim of deduction u/sec.80P which was denied by the Assessing Officer due to non-filing of the return of income u/sec.139(1) of the Act but the claim was made only in the return of income filed in response to notice u/sec.148 of the Act. Similarly, the other appeals filed by the assessee against the levy of penalty u/sec.270A to 271AA(c) are required to be adjudicated on merits at the level of the learned CIT(A). Hence, the impugned orders of the learned CIT(A) are set-aside, and matters are remanded to the record of the learned CIT(A) for adjudication of the appeals of

the assessee arising from the assessment order as well as penalty orders for both the years on merits, after giving one more opportunity of hearing to the assessee.

10. In the result, all the four appeals of the Assessee are allowed for statistical purposes. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on conclusion of hearing i.e., on 22.01.2026.

Sd/-
[OMKARESHWAR CHIDARA]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 22nd January 2026.

VBP

Copy to

1.	Gajullanka Primary Agriculture Co-Op Society, Ramalayam Vari Veedhi, Avulavaripalem, Kolluru Mandal, Guntur District. PIN – 522 324. State of Andhra Pradesh.
2.	The Income Tax Officer, Ward-1, D.No.19-15-17, Opp. Sai Baba Temple, Bose Road, TENALI. PIN – 522 201. State of Andhra Pradesh
3.	The Pr. CIT, Guntur.
4.	The DR ITAT “Visakhapatnam” Bench, Visakhapatnam
5.	Guard File

//By Order//

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