

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी-एस एम् सी' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad "B-SMC" Bench, Hyderabad

श्री मंजुनाथा जी., माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI MANJUNATHA G., HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकर अपीलसं./I.T.A.Nos.1063/Hyd/2025 to 1065/Hyd/2025
(निर्धारण वर्ष/ Assessment Year: 2015-16, 2016-17 and 2017-18)

Gaddam Mohan Reddy Nizamabad PAN : AMYPG8844L (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer Ward-2 Nizamabad (प्रत्यर्थी/ Respondent)
आयकर अपीलसं./I.T.A.Nos.1066/Hyd/2025 (निर्धारण वर्ष/ Assessment Year: 2015-16)		
Ashwitha Reddy Baddam Nizamabad PAN : BKXPG1986K (अपीलार्थी/ Appellant)	Vs.	Income Tax Officer Ward-2 Nizamabad (प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Adv. A.V.Raghuram
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri K.Vamsi Krishna, Sr.D.R.
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	03.02.2026
घोषणा की तारीख/ Date of Pronouncement	:	06.02.2026

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O R D E R

PER MANJUNATHA G., A.M :

ITA No.1066/Hyd/2025, A.Y.2015-16

The captioned appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-Addl./JCIT(A)-3, Bengaluru [in short “Ld.CIT(A)”], dated 26.12.2024, pertaining to the assessment year 2015-16.

2. At the outset, we find that there is a delay of 151 days in filing the appeal before the Tribunal, for which a petition for condonation of delay along with an affidavit has been filed. The learned counsel for the assessee, referring to petition filed for condonation of delay submitted that, the appeal has been filed with the delay of 151 days and the delay in filing the appeal is mainly due to the mistake of the counsel, who supposed to file appeal before the Tribunal, for which, Shri A.V.Raghuram has filed an affidavit and admitted lapse on his part for not filing the appeal, even though the appellant has furnished relevant details well within the time limit to file the appeal. Therefore, he submitted that there is sufficient cause for not filing appeal and it

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is due to the error committed by the counsel and thus, for advancement of substantial justice, the delay in filing the appeal may be condoned.

3. Learned Sr.AR for the Revenue, on the other hand, submitted that the reasons given by the appellant in the petition filed for condonation of delay does not come under “sufficient cause” and thus, the delay in filing the appeal should not be condoned.

4. We have heard both the parties and considered relevant reasons given by the appellant for condonation of delay along with affidavit of the appellant and the counsel who admitted the mistakes and we find that although, the appellant has furnished relevant papers to the counsel, Shri A.V.Raghuram for filing the appeal, but the counsel, due to his busy schedule has failed to file the appeal within the time allowed under the Act. Further, the appellant had also demonstrated with evidence that she is having a strong case on merits and if the case has been dismissed on technical grounds, a meritorious case may be thrown out of judicial scrutiny. It is well established principle of law by the

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decision of the Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs. MST. Katiji [1987] 167 ITR 471 (SC), where it was held that, a liberal and pragmatic approach should be adopted, while considering applications for condonation of delay, so that substantial justice is not defeated on technical grounds. Similar view has been taken by the Hon'ble Karnataka High Court in CIT & Anr. Vs. ISRO Satellite Centre [2013] 263 CTR (Kar) 549 and by the Hon'ble Jurisdictional ITAT in Srimaan Industries Private Limited Vs. ITO [2022] 217 TTJ (Hyd) 120. Respectfully following the aforesaid judicial precedents and considering the bonafide reasons explained by the assessee, we condone the delay in filing the appeal and admit the appeal for adjudication, instituted before the Tribunal, subject to payment of Rs.5000/- towards costs and such cost should be paid to the Prime Minister National Relief Fund ["PMNRF"] on or before one month from the date of this order and furnish relevant evidence to the Registry of the Tribunal.

5. The brief facts of the case are that the assessee is an individual and she has not filed the return of income for the

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A.Y.2015-16. A survey operation u/s 133A of the Income Tax Act, 1961 (“the Act”) was conducted in the business premises of M/s Venki Infra Developers on 03.12.2015. During the course of survey, it was noticed that a Development Agreement-cum-General Power of Attorney was executed between Smt.Gaddam Hamsa, wife of Sri Gaddam Mohan Reddy with M/s Venki Infra & Developers to develop multi storied apartment on 16.07.2012. After death of Smt.Gaddam Hamsa, again, ratification deed was executed on 15.07.2013 between the assessee, her father, Sri Gaddam Mohan Reddy, younger minor sister, Gaddam Mounika Reddy and the Developer. As per Joint Development Agreement, the parties have agreed to share the developed property in the ratio of 33.10:66.90. The assessee and his co-owners have got 8.42 flats as their share. It was further noted that the assessee and other co-owners sold two flats worth Rs.26.88 lakhs during the F.Y.2014-15, relevant to the A.Y.2015-16. The share of the assessee in the sale proceeds was $\frac{1}{3}$ rd, which works out to Rs.8.96 lakhs. But the assessee has not filed the return of income for the A.Y.2015-16. Therefore, the assessment has been reopened

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u/s 147 of the Act and the notice u/s 148 dated 16.08.2018 was issued and served on the assessee. In response to the notice, the assessee filed return of income on 09.03.2019, declaring total income of Rs.2,01,030/-.

6. The case was selected for scrutiny and during the course of assessment proceedings, it was seen that the assessee sold two flats for Rs.26,88,000/- and computed short term capital gains of Rs.2,01,030/- after claiming cost of acquisition at Rs.700 per SFT for super built up area and cost of acquisition of undivided share of land at Rs.2150 per sq.yd. The appellant had also claimed cost of improvement and finally arrived at STCG Rs.6,03,155/- and assessee's share of 1/3rd works out to Rs.2,01,030/-. The A.O. after noting the relevant capital gain, computed by the assessee and also taking into consideration, the facts of the case, issued show cause notice and called upon the assessee to explain as to why the cost of acquisition of undivided portion of land shall not be determined on the basis of cost of acquisition of land transferred to the builder in pursuant to receipt of super built up area. In response, the assessee submitted that the appellant has

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computed long term capital gains, in pursuant to Joint Development Agreement in the F.Y.2012-13, relevant to A.Y.2013-14, where the appellant has estimated the sale consideration of Rs.700/- per SFT for super built up area, which is the fair market value of the flat as on the date and further computed cost of acquisition by adopting Rs.2,150/- per sq.yard which is also the SRO value of the land at relevant point of time. Therefore the value adopted by the A.O. is incorrect. The A.O. further considering the relevant submissions of the assessee and also taking note of Joint Development Agreement between the appellant and the builder, observed that the appellant has agreed to share the super built up area in the ratio of 33.10:66.90 and upon receipt of 9350 SFT of built up area, the appellant transferred 66.90% of land to the builder. The appellant has adopted cost of land at Rs.22,38,900/- and share of land transferred to the builder in pursuant to the receipt of super built-up area works out to Rs.14,97,824/-. If we consider the total cost transferred by the assessee, which works out to Rs.160 per SFT as against which, the appellant has adopted cost of acquisition of

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Rs.2150/- per sq.yard. Therefore, rejected the explanation of the assessee and adopted cost of acquisition of Rs.160/- per SFT which works out to Rs.3,50,400/- and computed the long term capital gains of Rs.23,37,600/- and arrived at 1/3rd share at Rs.7,79,200/- and made additions of Rs.5,78,170/- after reducing amount of capital gain declared by the assessee at Rs.2,01,030/-.

7. On appeal, the Ld.CIT(A) for the reasons stated in their appellate order dated 26.12.2024, upheld the additions made by the A.O. towards computation of short-term capital gains from sale of property.

8. Shri A.V.Raghuram, the learned counsel for the assessee has submitted that the Ld.CIT(A) erred in sustaining the additions made towards computation of capital gain, without appreciating the fact that the appellant has computed the capital gains from transfer of land in pursuant to the Joint Development Agreement dated 16.07.2012 for the F.Y.2012-13, relevant to the A.Y.2013-14, where the appellant has adopted cost of acquisition of land at Rs.2150/- per sq.yd and the A.O. has accepted the computation in his assessment order passed u/s 143(3) r.w.s. 147 dated

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11.12.2017. The learned counsel for the assessee further referring to the order passed by the Ld.Pr.CIT, Hyderabad u/s 263 of the Act dated 09.03.2021 and the consequent assessment order passed by the A.O. u/s 144 r.w.s. 263 of the Act dated 03.03.2022 submitted that although the Ld.Pr.CIT set aside the assessment order, but not on the cost of acquisition, but only on the issue of computation and the same has been accepted by the department. Therefore, he submitted that once of cost of acquisition of the land has been accepted by the department, without there being any further proceedings, the A.O. cannot adopt a different value for the year under consideration, in respect of computation of short term capital gain from transfer of flat. Therefore, he submitted that the order of the Ld.CIT(A) should be set aside and the additions made by the A.O. should be deleted.

9. Shri K.Vamsi Krishna, the Ld.Sr.DR for the Revenue, on the other hand, supporting the order of the Ld.CIT(A) submitted that the appellant has adopted incorrect cost of acquisition of land by considering the fair market value of land as on the date of Joint Development Agreement, even though the appellant should have

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adopted actual cost or fair market value of the land as on 01.04.2001, if such land was acquired before 01.04.2001. In the present case, although the A.O. for the A.Y.2013-14 has accepted the cost adopted by the assessee on the basis of SRO value, but the fact remains that the computation of cost of acquisition is incorrect, going by the provisions of the Act and therefore, the A.O. has rightly adopted the cost of land as declared by the assessee, while computing the capital gains. The Ld.CIT(A), after considering the relevant facts has rightly rejected the explanation of the assessee and sustained the additions made by the A.O. Therefore, he submitted that the order of the Ld.CIT(A) should be upheld.

10. We have heard both the parties, perused the material on record and gone through the orders of the authorities below. There is no dispute with regard to the fact that the appellant along with others had entered into Joint Development Agreement with M/s Venki Infra & Developers on 16.07.2012 for development of land and agreed to share the built-up area in the ratio of 33.10:66.90 for the land owner and the developer. Further, after death of

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Smt.Gaddam Hamsa, a ratification deed was executed on 15.07.2013 and as per which, the appellant and other co-owners have got 8.42 flats as their share. It is also an admitted fact that the appellant had declared long term capital gain derived from transfer of property in pursuant to Joint Development Agreement with M/s Venki Developers for the A.Y.2013-14 and reported long term capital gains of Rs.18,08,387/- where the appellant has computed long term capital gains by adopting cost of acquisition of land at Rs.2,150/- per sq.yd. The A.O. made additions towards computation of short-term capital gains by recomputing the cost of acquisition and made addition of Rs.5,78,170/- to the share of the assessee. The A.O. has computed the cost of land by taking into account the cost adopted by the appellant at Rs.22,28,900/- and has worked out the cost of land transferred to the builder, in pursuance to the Joint Development Agreement at Rs.14,97,824/- and divided the said cost of land from super built up area received by the appellant at 9351 SFT and arrived at cost of acquisition of land at Rs.160 per SFT. The A.O. further observed that the appellant has sold two flats admeasuring 2190 SFT and thus

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arrived at cost of acquisition of Rs.3,50,400/- by adopting Rs.160 per SFT before arriving at short term capital gain of Rs.23,37,600/- and the assessee's share of 1/3rd of capital gains of Rs.7,79,200/-. It was the argument of the counsel for the assessee that the cost of acquisition of land has been accepted by the department for the A.Y.2013-14, where the appellant while computing the long term capital gains in pursuant to Joint Development Agreement has adopted cost of Rs.2150/- per sq.yd on the basis of SRO value and therefore, once the department has accepted the cost of acquisition, there is no reason for the A.O. to adopt different cost, without there being any change in the facts for the year under consideration.

11. We have given our thoughtful consideration to the reasons given by the A.O. to make additions towards short term capital gains from transfer of flats, in light of various arguments of the assessee and we ourselves do not subscribe to the reasons given by the A.O. for the simple reason that, the cost of acquisition of land has become final, once the department has accepted the computation of long term capital gains declared by the assessee in

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respect of land in pursuant to the Joint Development Agreement with the builder. Further, the appellant has computed cost of acquisition at 2150 per sq.yd and the same was subjected to scrutiny assessment, where the A.O. has accepted the cost claimed by the assessee. Further, although the proceedings were subjected to 263 proceedings by the Ld.Pr.CIT, upon perusal of the relevant order passed by the Ld.Pr.CIT u/s 263 and consequent assessment order passed u/s 144 r.w.s. 263 of the Act, we find that the issue for proceedings u/s 263 was not on the issue of cost of acquisition of land, but on computation of capital gains on a different aspect. Since the cost of land adopted by the assessee becomes final, in our considered view, unless there is change in the facts for the year under consideration, the A.O. cannot adopt different cost for the year under consideration. This is because, although principles of *res-judicata*, is not applicable to the income tax proceedings, but the rule of consistency needs to be followed, if there is no change in the facts for the year under consideration, as held by the Hon'ble Supreme Court in the case of Radhasoami Satsang v. Commissioner of Income Tax (1992) 193

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ITR 321 (SC). Therefore, in our considered view, the A.O. has erred in adopting different cost of acquisition of land, while computing short-term capital gain from sale of flats. The Ld.CIT(A) without appreciating relevant facts simply sustained the additions made by the A.O. Thus, we set aside the order of the Ld.CIT(A) and direct the A.O. to delete the additions made towards computation of short term capital gains of Rs.5,78,170/-.

12. In the result, appeal filed by the assessee is allowed.

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13. The captioned appeals filed by the assessee are directed against orders of the learned Commissioner of Income Tax (Appeals)-Addl./JCIT(A)-2, Pune [in short "Ld.CIT(A)"], all dated 17.12.2024, pertaining to the assessment years 2015-16, 2016-17 and 2017-18. Since the issues involved in all these appeals are identical, these appeals are clubbed, heard together and a common order is being passed for the sake of convenience as under.

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14. At the outset, we find that there is a delay of 115 days in filing the appeals before the Tribunal, for which a petition for condonation of delay along with an affidavit has been filed. The learned counsel for the assessee, referring to petition filed for condonation of delay submitted that the appeal has been filed with the delay of 115 days and the delay in filing the appeal is mainly due to the mistake of the counsel, who supposed to file appeal before the Tribunal, for which, Shri A.V.Raghuram has filed an affidavit and admitted lapse on his part and not filed the appeal even though the appellant has furnished relevant details well within the time limit to file the appeal. Therefore, he submitted that there is sufficient cause for not filing appeal and it is due to the error committed by the counsel and thus, for advancement of substantial justice, the delay in filing the appeal may be condoned.

15. Learned Sr.AR for the Revenue, on the other hand, submitted that the reasons given by the appellant in the petition filed for condonation of delay does not come under "sufficient

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cause” and thus, the delay in filing the appeal should not be condoned.

16. We have heard both the parties and considered relevant reasons given by the appellant in the reasons given for condonation of delay along with affidavit and the appellant and the counsel who admitted the mistakes, we find that although the appellant has furnished relevant papers to the counsel, Shri A.V.Raghuram for filing the appeal, but the counsel, due to his busy schedule has failed to file the appeal within the time allowed under the Act. Further, the appellant had also demonstrated with evidence that he is having a strong case on merits and if the case has been dismissed on technical grounds, a meritorious case may be thrown out of judicial scrutiny. It is well established principle of law by the decision of the Hon’ble Supreme Court in the case of Collector, Land Acquisition Vs. MST. Katiji [1987] 167 ITR 471 (SC), where it was held that, a liberal and pragmatic approach should be adopted while considering applications for condonation of delay, so that substantial justice is not defeated on technical grounds. Similar view has been taken by the Hon’ble Karnataka

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High Court in CIT & Anr. Vs. ISRO Satellite Centre [2013] 263 CTR (Kar) 549 and by the Hon'ble Jurisdictional ITAT in Srimaan Industries Private Limited Vs. ITO [2022] 217 TTJ (Hyd) 120. Respectfully following the aforesaid judicial precedents and considering the bona fide reasons explained by the assessee, we condone the delay in filing the appeal and admit the appeal for adjudication, subject to payment of Rs.5000/- towards costs in each appeal, in toto Rs.15000/- for the three appeals instituted before the Tribunal and such costs should be paid to the Prime Minister National Relief Fund ["PMNRF"] on or before one month from the date of this order and furnish relevant evidence to the Registry of the Tribunal.

17. The facts and issues involved in these appeals filed by the assessee, Shri Gaddam Mohan Reddy for the A.Y.2015-16 to 2017-18 are identical to the facts and issues which we had considered in the case of Smt.Ashwitha Reddy Baddam for the A.Y.2015-16 in ITA No.1066/Hyd/2025. But for the figures, the issue is identical in these three appeals filed by the assessee for the A.Y.2015-16 to 2017-18. The reasons given by us in the

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preceding paragraph Nos.10 and 11 shall equally apply to these appeals as well. Therefore, for similar reasons, we set aside the order passed by the Ld.CIT(A) and direct the A.O. to delete the additions made towards short-term capital gains of Rs.11,56,275/- for the A.Y.2015-16, Rs.1565,410/- for the A.Y.2016-17 and Rs.13,34,598/- for the A.Y.2017-18.

18. In the result, the appeals filed by the assessee are allowed for the A.Y.2015-16 to 2017-18.

19. To sum up, all the four appeals filed by the assesseees are allowed for the A.Y.2015-16 to 2017-18.

Order pronounced in the Open Court on 6th February, 2026.

<p>Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>	<p>Sd/- (मंजुनाथा जी.) (MANJUNATHA G.) लेखा सदस्य/ACCOUNTANT MEMBER</p>
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Hyderabad,
dated 06.02.2026.
L.Rama/sps

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आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Smt.Ashwitha Reddy Baddam, Flat No.202, Venkys Golden Heights, Road No.4, Vinayaka Nagar, Nizamabad Shri Gaddam Mohan Reddy, Flat No.202, Venkys Golden Heights, Road No.4, Vinayaka Nagar, Nizamabad
2.	राजस्व/ Revenue	The :	The Income Tax Officer, Ward-2, 6-2-156/3, Subhash Nagar, Nizamabad
3.	The Principal Commissioner of Income Tax, Hyderabad		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad