आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL VISAKHAPATNAM "SMC" BENCH, VISAKHAPATNAM

श्री रवीश सूद ,न्यायिक सदस्य
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकर अपीलसं./**I.T.A.No.532/VIZ/2025**
(निर्धारण वर्ष/ **Assessment Year:2017-18)**

Boda Ramasatyanarayana 1/94, K.N.F. Road Draksharamam East Godavari District - 533262 **[PAN: AAIFB7327F]**	Vs.	**Income Tax Officer, Ward-1** Kakinada East Godavari - 533001

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri K.S.S. Sarma, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Sri K. Prasad, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.02.2026
घोषणा की तारीख/Date of Pronouncement	:	09.02.2026

आदेश /O R D E R

PER RAVISH SOOD, JM:

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 30.12.2022, which in turn arises from the order passed by the Assessing Officer (for short, "A.O") under section 144 of the Income-Tax Act, 1961 (for short, "the Act"), dated 15.12.2019 for the Assessment Year 2017-18. The assessee has assailed the impugned order on the following grounds of appeal:

"1. The order of the Hon CIT (A) is arbitrary and injustice.

2. The Hon CIT (A) failed to verify that the appellant is petrol bunk coming under the exempted category for demonetization currency and hence should have deleted the deposit of INR 16,35,000 US 69A of the income tax act as the question of demonetization do not apply to petrol bunks as per specific notification/ direction by the central government.

3. The Hon CIT (A) failed to see that the margin of profit in petrol bunks is only 0.5% to 1% which is the commission given to the dealers by the companies like IOC, HPCL etc..,. hence confirming the estimation at 8% is unjust.

4. The Hon CIT(A) failed to see that the entire turnover of petroleum products belongs to companies like IOC/ HPC but not of the appellant as he gets only the commission and he has no control over purchase and sale of products.

5. The appellant craves leave to add to, amend, alter, delete all or any of the above grounds of appeal."

2. Succinctly stated, the AO, based on the information that the assessee during the subject year had, though made a substantial amount of cash deposits in his bank account no. 11011100000575 held with Andhra Bank, Branch: Draksharamam of Rs.16,35,000/-, but had not filed his return of income, issued notice under section 142(1)(i) of the Act dated 29.01.2018 and called upon him to file his return of income for the subject year. However, the assessee failed to comply with the aforesaid notice and did not file his return of income as was called upon by the A.O. Thereafter the A.O had issued a notice under section 131 of the Act on 03.10.2019 (served on 04.10.2010) wherein the assessee was called upon to put an appearance before him, but the same was also not complied with and met the same fate.

3. Subsequently, the AO issued notice under section 133(6) of the Act to the banks and, based on the bank statements of the assessee therein obtained /gathered, observed that the assessee had, during the demonetization, made cash deposits of Rs. 16,35,000/-

. As the assessee had failed to come forth with a proper explanation regarding the source of the cash deposits, therefore, the A.O held the entire amount of Rs. 16,35,000/- as having been sourced out of the assessee's unexplained money under section 69A of the Act.

4. Further, the A.O observed that the assessee during the subject year had in his bank accounts made total cash deposits of Rs. 2,23,73,000/. The AO, after reducing the amount of cash deposits made by the assessee in his bank account during the demonetization period amounting to Rs. 16.35 lacs (supra), held the balance amount of Rs. 2,07,38,000/- as the turnover of the assessee from his business of purchase/sale of HSD, MS and lubricants. Accordingly, the A.O estimated the business income on the aforementioned business turnover of Rs. 2,07,38,000/- @ 8% and made a consequential addition of Rs.16,59,040/-. Accordingly, the A.O based on his aforesaid deliberations vide his order passed under section 144 of the Act, dated 15.12.2019, determined the income of the assessee at Rs. 32,94,040/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success.

6. The assessee, aggrieved with the order of the CIT(A), has carried the matter before us.

7. Shri K.S.S. Sarma, CA, Learned Authorised representative (for short, "Ld. AR") for the assessee, at the threshold of hearing of appeal, submitted that the present appeal involves a delay of 918 days. Elaborating on the reasons leading to the delay, the Ld.AR submitted that the same had crept in because of certain compelling reasons which were

beyond the control of the assessee, who is a dealer of HPCL and is running a petrol bunk at Draksaramam, viz. (i). that as the firm in which the assessee is a partner had during the year 2017 faced serious issues with the Weights & Measures Department resulting into suspension of its business till 2019, therefore, the same has resulted into serious financial difficulty to the partners of the assessee-firm (including the assessee); (ii). that the assessee had come to know about the assessment framed in his case only after the attachment of his bank account; (iii). that as the assessee, due to financial constraints, could not pay the fees of his chartered accountant, therefore, he had failed to actively follow up his appeal; and (iv). that the assessee had come to know about the dismissal of his appeal only a few months back when his bank accounts were once again attached by the department.

8. The Ld.AR submitted that as the delay in filing of the appeal is neither deliberate nor intentional but solely on account of financial hardship, suspension of business operations and lack of awareness of the new faceless proceedings, therefore, the same in all fairness and in the interest of justice be condoned.

9. Per contra, the Learned Senior Departmental Representative (for short, "Ld. DR") vehemently objected to the seeking of condonation of the delay involved in the present appeal. The Ld. DR submitted that as the delay involved in the present appeal is inordinate and not backed up by any justifiable reason, therefore, the appeal is liable to be dismissed on the said count itself.

10. I have given a thoughtful consideration to the contentions advanced by the Learned Authorized Representatives of both the parties, perused the orders of the lower authorities and the material available on record.

11. Admittedly, it is a matter of fact apparent from the record that the assessee had delayed the filing the present appeal before the Tribunal by 918 days. Before proceeding any further, I deem it apposite to refer to the conduct of the assessee with respect to his Income Tax Proceedings before the authorities.

12. Ostensibly, the assessee had neither voluntarily filed his return of income as required by the mandate of section 139(1) of the Act nor complied with the notices issued by the A.O under section 142(1) of the Act, which, thus, had resulted into framing of an ex-parte assessment by the A.O vide his order passed under section 144 of the Act dated 15.12.2019. The assessee, despite having burnt his fingers and been visited with an ex parte assessment order, had continued with his lackadaisical approach before the first appellate authority and did not even deem it fit to participate in the proceedings before the CIT(A), who, thus, was constrained to dismiss the appeal after considering the material available on record. Consistently following his callous approach regarding his income tax proceedings, the assessee has preferred the present appeal involving a delay of 918 days.

13. Although the Ld.AR has come forth before me with multi-facet reasons leading to the delay in filing the present appeal, as have been culled out by is hereinabove, but I find its explanation as nothing better than an eye wash. In fact, it is a case before me where there is an inordinate delay of 918 days in filing of the present appeal by the

assessee who consistently right from the obligation that was cast upon him for voluntarily filing his return of income under Section 139(1) of the Act, participating in the assessment proceedings, prosecuting the appeal before the CIT(Appeal), and now before us, had on all the occasions either delayed the compliances or failed to comply with the statutory obligations.

14. Be that as it may, I am of the view that though a judicial and liberal approach should be adopted for condoning the delay involved in filing of an appeal by an appellant and the same should normally be condoned, but in cases of a habitual non-compliant like the one before me, such an approach cannot be adopted. I find that the law is well settled that while courts are expected to adopt a liberal approach in considering petitions for condonation of delay where sufficient cause is shown, such liberality cannot be extended to condone inordinate delay where the explanation is vague, casual, or lacking in bona fides. My aforesaid view is supported by the order of the **Hon'ble Supreme Court** in **Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 348 ITR 7 (SC),** wherein it was held as under:

> "It is not that a delay of a few days is to be condoned automatically. The law of limitation is founded on public policy. The courts have to exercise discretion only when sufficient cause is shown and not in a routine manner."

Similarly, in **Basawaraj & Anr. v. Special Land Acquisition Officer (2013) 14 SCC 81**, the **Hon'ble Supreme Court** had observed, as under:

> "The expression 'sufficient cause' should be construed strictly and not liberally merely to benefit a litigant who is negligent. Delay cannot be condoned merely because the Government or a private party has a good case on merits. The applicant must explain each day's delay satisfactorily."

Further, the **Hon'ble Supreme Court** in **P.K. Ramachandran v. State of Kerala (1997) 7 SCC 556** has categorically held that:

> "Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. Courts have no power to extend the period of limitation on equitable grounds."

Accordingly, by applying the above principles to the present case, I find that the explanation offered by the assessee regarding the reason leading to the delay in filing the appeal before the CIT(A) does not inspire any confidence and is totally devoid and bereft of any substance. I further find that the **Hon'ble Supreme Court** in **Union of India v. Popular Construction Co. (2001) 8 SCC 470**, has observed that limitation provisions are based on sound public policy — to ensure certainty, finality, and avoidance of stale claims. In the instant case, the assessee has failed to come forth with any plausible explanation leading to the delay involved in filing the present appeal, therefore, considering the fact that the delay involved in the present appeal is inordinate and not backed up by any justifiable reason, I am constrained to dismiss the appeal on the ground of limitation itself.

15. Resultantly, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 09th February, 2026.

Sd/-
(रवीश सूद)
(RAVISH SOOD)
न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 09.02.2026
**Giridhar, Sr.PS*

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

1. निर्धारिती/ The Assessee : **Boda Ramasatyanarayana**
1/94, K.N.F. Road
Draksharamam
East Godavari District – 533262

2. राजस्व/ The Revenue : **Income Tax Officer, Ward-1**
Kakinada
East Godavari - 533001

3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam