

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री ओंकारेश्वर चिदारा लेखा सदस्य के समक्ष,
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

&

SHRI OMKARESHWAR CHIDARA, HON'BLE ACCOUNTANT MEMBER

**आयकर अपीलसं./I.T.A.No.555/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2019-20)**

Sreeramulu Pentakota 54-12-54/4, Bhanu Street Near Krishna College Maddilapalem Visakhapatnam – 5300052 [PAN: ABZPP5202F]	Vs.	Income Tax Officer Ward – 3(3) Income Tax Office Infinity Towers Sankaramatam Road Visakhapatnam - 530016
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Ms. K. Chudamani, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri D. Hema Bhupal, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	16.02.2026
घोषणा की तारीख/Date of Pronouncement	:	18.02.2026

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 Addl./Joint Commissioner of Income Tax (Appeals)-1, Mumbai (for short

“CIT(A)”, dated 04.11.2024, which in turn arises from the intimation passed by the by the Assessing Officer (for short, “A.O”)/Centralized Processing Centre, Bangalore under section 143(1) of the Income-Tax Act, 1961 (for short, “the Act”), dated 29.12.2020 for the Assessment Year 2019-20. The assessee has assailed the impugned order on the following grounds of appeal:

- “1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.
2. The learned Assessing Officer erred in not considering the set off of brought forward long-term capital loss declared by the appellant in the return of income of AY 2011-12 against the long-term capital gains of AY 2019-20.
3. The learned Commissioner of Income Tax (Appeals) erred in not verifying the return of income filed by the assessee for AY 2011-12 from which the brought forward capital loss has been claimed by the appellant, before dismissing the appellant's appeal.
4. Any other ground that may be urged at the time of appeal hearing.”

2. Succinctly stated, the assessee had filed his return of income for the A.Y.2019-20, declaring an income of Rs. 7,01,180/-, after claiming set-off of brought forward capital loss of Rs. 2,37,03,359/- against Long Term Capital Gains (for short “LTCG”) of Rs. 2,37,03,359/- derived from the year under consideration. The return of income filed by the assessee was processed by the CPC, Bangalore, wherein his total income was determined at Rs. 2,43,33,430/- after allowing set-off of only an amount of Rs. 71,109/- [as against Rs. 2,37,03,359/- claimed by the assessee]. Accordingly, the assessee’s claim for set-off of carry forward loss was disallowed to the extent of

Rs.2,36,32,250/- in the intimation issued by the A.O/CPC under section 143(1) of the Act dated 29.12.2020.

3. Aggrieved, the assessee carried the matter in appeal before the CIT(A). Ostensibly, as the assessee, despite having been offered seven opportunities, had failed to participate in the proceedings before the CIT(A), therefore, the latter held a conviction that the assessee was not interested in prosecuting the appeal and thus, upheld the view taken by the A.O/CPC, Bangalore.

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

5. Ms. K. Chudamani, CA, Learned Authorised Representative (for short “Ld.AR”) for the assessee, at the threshold of hearing of the appeal submitted that the same involves a delay of 231 days. Elaborating on the reason leading to the delay in filing the present appeal, the Ld.AR submitted that the same had crept in for two reasons viz., (i) that the assessee from October, 2024 was suffering from chronic lumbar disc disease, severe lower back pain and immobility and was advised four months bed rest; and (ii) that the assessee who had engaged an accountant for managing the Income Tax affairs and related matters and was in possession of the necessary assessee credentials had on his own updated the contact information, i.e, (mobile and email Id) in the Income Tax e-filing account of the assessee and, thus, the assessee had remained oblivious to the on going appellate proceeding before the CIT(A) as well as the disposal of appeal. The Ld. AR to fortify her aforesaid claim regarding the reasons leading to the delay in filing

of the appeal had drawn our attention to the application filed by the assessee seeking condonation of delay dated 22.09.2025, supported with copies of medical certificates. Also, the Ld.AR had taken us through the “affidavit” filed by the assessee dated 20.9.2025, wherein he had deposed the aforesaid facts. The Ld.AR submitted that as the delay in filing the present appeal had crept in for bonafide reasons and not on account of any lackadaisical approach on the part of the assessee, therefore, the same in all fairness and interest of justice be condoned.

6. Per contra, Shri D. Hema Bhupal, Learned Senior Departmental Representative (for short “Ld. DR”) objected to the seeking of condonation of the delay involved in filing of the present appeal.

7. We have heard the Learned Authorised Representatives of both parties, perused the orders of the lower authorities and the material available on record regarding the issue of delay involved in filing the present appeal before us.

8. Admittedly, it is a matter of fact discernible from the record that the assessee, despite having been afforded seven opportunities to participate in the course of the proceedings before the CIT(A), had failed to put up an appearance on either of the said occasions i.e., on 04.08.2023, 06.09.2023, 29.03.2024, 02.06.2024, 06.08.2024, 17.09.2024 and 18.10.2024. Accordingly, the CIT(A) in the backdrop of the aforesaid failure of the assessee to participate in the appellate proceedings had dismissed his appeal in limine and approved the additions/disallowance made by the A.O/CPC, Bangalore vide his intimation issued under section 143(1) of the Act.

9. We have given thoughtful consideration to the reasons leading to the delay in filing the present appeal by the assessee in the backdrop of the material available on record. In our view, there is substance in the Ld. AR's contention that as the assessee during the relevant period was suffering from certain medical ailments and was advised rest, therefore he could not follow up his income tax proceedings before the authorities below, which thus, had both resulted to the said proceedings going unattended as well as delay in the filing the present appeal before us. We say so, for the reason that the aforesaid claim of the assessee about his ill-health is supported by the deposition made by him in his "affidavit" dated 20.09.2024, which is further supported by medical certificates. Apart from that, we also find substance in the Ld. AR's contention that as his accountant, who was looking after his income-tax matters, had on his own provided his email account, viz. "balagayerukunaidu@gmail.com" in the memorandum of appeal filed before CIT(A), i.e, "Form-35", therefore for the said reason also the assessee had remained unaware of the ongoing appellate proceedings and the dismissal of his appeal by the first appellate authority vide an exparte order. We say so, for the reason that the aforesaid claim of the assessee is supported by an "affidavit" dated 22.09.2025. In our view, as the delay in filing of the present appeal before us had crept in for the aforesaid two-fold reasons viz., (i) ill-health of the assessee during the relevant period; and (ii) failure of the accountant who was looking after the income tax proceedings of the assessee to properly follow up the ongoing appellate proceedings, therefore, the same in all fairness and in the interest of justice merits condonation. Our aforesaid view that a liberal approach should be adopted while considering an application filed by an appellant seeking condonation of the delay involved in filing the same 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**, wherein 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 the appeal. We thus, in terms of our aforesaid observations condone the delay of 231 days involved in filing the present appeal by the assessee before us.

10. We, thus, in terms of our aforesaid deliberation are of the view that as there were justifiable reasons due to which the assessee had failed to participate in the proceedings before the CIT(A), set-aside the matter to his file with a direction to dispose of the appeal afresh after adjudicating all the specific grounds of appeal raised by the assessee before him. Needless to say, the CIT(A) in the course of the set-aside proceedings shall afford a reasonable opportunity of being heard to the assessee.

11. Before parting, we may herein observe that though we have condoned the delay involved in filing of the present appeal, but at the same time cannot remain oblivion of the fact that the said delay, to some extent, had crept in because of the assessee not remaining vigilant regarding his ongoing proceedings before the CIT(A). We thus, in terms of our aforesaid deliberations, though have condoned the delay in filing of the present appeal, but the same is subjected to imposition of cost of Rs.10,000/- on the

assessee who is directed to deposit the same with Prime Minister National Relief Fund within a period of 15 days from the date of receipt of this order.

12. 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 18th February, 2026.

(ओंकारेश्वर चिदारा)
(OMKARESHWAR CHIDARA)
लेखा सदस्य /ACCOUNTANT MEMBER
Dated: 18.02.2026
*Giridhar, Sr.PS

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

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

1. निर्धारिती/ The Assessee : **Sreeramulu Pentakota**
54-12-54/4, Bhanu Street
Near Krishna College
Maddilapalem
Visakhapatnam – 5300052
2. राजस्व/ The Revenue : **Income Tax Officer**
Ward – 3(3)
Income Tax Office
Infinity Towers
Sankaramatam Road
Visakhapatnam - 530016
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