

**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.428/VIZ/2025  
(निर्धारण वर्ष/ Assessment Year:2017-18)**

<b>SriLakshmi Devireddy</b> D.No. 9-58, Loyabata Road Nunna, Vijayawada – 521212 Andhra Pradesh  <b>[PAN: BJUPD8440D]</b>	<b>Vs.</b>	<b>Income Tax Officer, Ward-3(5)</b> Vijayawada
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri C. Subrahmanyam, 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	:	19.02.2026

**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 12.11.2024, which in turn arises from the order passed by the Assessing Officer (for short, “A.O”) under section 143(3) of the Income-Tax Act, 1961 (for short, “the Act”), dated 03.12.2019 for the Assessment Year 2017-18. The assessee has assailed the impugned order on the following grounds of appeal:

“1. That under the facts and circumstances of the case, the order passed u/143(3) of the I.T. Act dt:03.12.2019, which was upheld by the Ld. CIT(A), NFAC vide order passed u/s 250 of the I.T. Act dt:12.11.24, is not in accordance with the facts of the case and the provisions of law.

2. The Ld. CIT(A) disposed of the appeal, ex-parte, without granting reasonable opportunity to the assessee, thereby, violating the principles of natural justice.

3. The disposal of the appeal, ex-Parte, by the Ld. CIT(A) is against the provisions of Section 250(6) of the IT Act which obligates the CIT (A) to dispose of the appeal on merits.

4. The learned CIT(A) erred in sustaining the addition of Rs.11,00,000/-u/s 69A of the IT Act and which is contrary to the provisions of law.

5. For these and other grounds that may be urged at the time of hearing, the appellant prays that the order passed by the learned CIT (A) be set aside in the interest of justice.”

2. Succinctly stated, the assessee had e-filed her return of income for the A.Y.2017-18 on 29.02.2018 under section 139(4) of the Act, declaring an income of Rs. 3,12,000/- . Subsequently, the case of the assessee was selected for “Limited Scrutiny” to verify the *“Large value cash deposits during the demonetization period as compared to the returned income”*.

3. During the course of the assessment proceedings, the A.O vide his notice issued under section 142(1) of the Act dated 15.02.2019 and 09.11.2019, called upon the assessee to furnish a copy of her bank account for the subject year along with the source of the cash deposits made in the same. As the assessee failed to furnish the requisite details, therefore, the A.O held the entire amount of cash deposits of Rs.11,00,000/- made in her two bank accounts as having been sourced from her unexplained money under section 69A of the Act and framed the assessment vide his order passed under section 143(3) of the Act, dated 03.12.2019.

4. Aggrieved, the assessee assailed the impugned assessment order before the CIT(A) but without success.

5. The assessee, aggrieved with the order of the CIT(A), has carried the matter in appeal before the Tribunal.

6. I have heard the Ld. Authorised 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 them to drive home their respective contentions.

7. Shri C. Subrahmanyam, CA, Learned Authorised Representative (for short, “Ld. AR”) for the assessee, at the threshold of hearing of appeal, submitted that the same involves a delay of 161 days. Elaborating on the reasons leading to the delay, the Ld.AR submitted that the same had crept in for the reason that the assessee, during the relevant period, had initially met with an accident and suffered injury of her right ankle and forearm and was advised bed rest for three weeks. The Ld.AR submitted that thereafter the assessee was taken unwell with dengue fever and had remained confined to her house for another two weeks. The Ld.AR submitted that it was for the aforesaid reasons that there was a delay in filing the present appeal. The Ld. AR submitted that it was only on 01.07.2025 when the assessee had received a call from the Income Tax Office regarding her outstanding tax liability that she had realized about the inadvertent omission on her part to file the present appeal. The Ld. AR submitted that the assessee had, thereafter, involving no further loss of time, filed the present appeal on 11.07.2025, which, by the time involved a delay of 161 days. The Ld.AR submitted that as the delay

in filing the present appeal had crept in not because of any callous or lackadaisical approach of the assessee but for the aforesaid bonafide reasons, therefore, the same in all fairness and interest of justice be condoned. The Ld.AR had drawn our attention to the application filed by the assessee seeking condonation of the delay, supported with an “affidavit” dated 16.07.2025. Also, the Ld.AR has taken us through the medical certificates supporting the claim of the assessee about the medical ailments that she was suffering during the relevant period, which had resulted to the delay in filing the present appeal.

8. Per contra, Shri D. Hema Bhupal, Learned Senior Departmental Representative (for short “Ld. DR”) objected to the seeking of the condonation of the delay involved in filing the present appeal. It was submitted by him that as the delay in filing the present appeal is inordinate and not backed by any justifiable reason, the same does not merit condonation.

9. I have considered the reasons leading to the delay in filing the present appeal, i.e., the injury suffered by the assessee followed by the dengue fever, which, she claims had resulted in the delay in filing the present appeal before the Tribunal. I find that the assessee had participated in the proceedings before the authorities below and is not a habitual non-compliant of the statutory obligations cast upon her under the Income Tax Act. In my view, as there is a justifiable reason leading to the delay in filing of the present appeal, thus, the same in all fairness and in the interest of justice, is hereby condoned. My aforesaid view that a judicial and liberal approach should be adopted while considering an application filed by an appellant for condonation of delay is

supported by the judgment of **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 31<sup>st</sup> 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. I thus, in terms of my aforesaid observations, condone the delay of 161 days involved in filing the present appeal by the assessee before the Tribunal.

10. Coming to the merits of the case, I find that as the assessee had failed to come forth with any explanation regarding the source of the cash deposits of Rs. 11,00,000/- made in her bank account, therefore, the AO had held the same as having been sourced out of her unexplained money under section 69A of the Act. Also, I find that the assessee, even before the authorities below, had failed to discharge the onus that was cast upon her for explaining the source of the cash deposits made in her bank account.

11. Shri C. Subrahmanyam, CA, Learned Authorised Representative (for short "Ld.AR") for the assessee, at the threshold of hearing of the appeal, submitted that he is confining his contentions only to two issues, viz. (i) that the A.O had erred in subjecting the addition of Rs. 11 lacs made under section 69A to the special rate of tax of 60% under section 115BBE of the Act, as the said enhanced rate of tax was not applicable to the year under consideration i.e., A.Y. 2017-18; and (ii) the A.O's view

that the entire amount of cash deposits of Rs. 11 lacs was to be treated as his unexplained money under section 69A of the Act is not in conformity with the CBDT Instruction No. 3/2017, dated 21.02.2017, wherein it is provided that no verification regarding the cash deposits up to Rs. 2,50,000/- would be called for in case of tax payers below the age of 70 years, as the sources of the said amount can safely be related to their household savings/savings from past income etc.

12. The Ld.AR to support his claim that the tax liability in the case of the assessee during the subject year, i.e., AY 2017-18 was to be determined @30% had relied upon the orders passed by the Tribunal in the case of Indira Rani Mulpuri v. ITO, Ward-3(5) in ITA No. 134/VIZ/2025, dated 05.12.2025 and Ananda Aqua Exports v. ITO, Ward-1 in ITA No. 15/VIZ/2025 dated 13.10.2025. The Ld.AR submitted that in both the cases the Tribunal had by drawing support from the judgment of the Hon'ble High Court of Madras in the case of SMILE Microfinance Ltd. vs. ACIT in WP(MD) no. 2078 of 2020 & 1742 of 2020 dated 19.11.2024 (Mad), had observed that the amendment made available in the statute vide the Taxation Laws (Second Amendment) Act, 2016, w.e.f 01/04/2017 to section 115BBE of the Act, wherein the tax rate on incomes referred in section 68, section 69, section 69A, section 69B, section 69C or section 69D was enhanced from 30% to 60%, was applicable only to the transactions from 01.4.2017 and could not be applied retrospectively. The Ld.AR submitted that the Tribunal in its aforesaid orders had specifically observed that the higher rate of tax @60% under section 115BBE of the Act was applicable only w.e.f. A.Y.2018-19.

13. Apart from that, the Ld.AR had placed on record the CBDT Instruction No. 3/2017, dated 21.02.2017, wherein, it was, *inter alia*, provided that in case of an individual assessee not having any business income, no further verification is required to be made if the total cash deposits is up to Rs. 2,50,000/-. Elaborating on his contention, the Ld.AR submitted that the CBDT had after taking cognizance of the fact that the cash deposits up to Rs. 2,50,000/-, if any, could safely be related to the assessee's earlier income or accumulated savings, therefore, to the said extent, the same were to be summarily accepted.

14. Per contra, Learned Senior Departmental Representative (for short, "Ld. DR") vehemently objected to the contentions advanced by the Ld. AR. The Ld. DR submitted that the view taken by the Tribunal in the aforesaid orders, as has been pressed into service by the Ld.AR to drive home her claim that the provisions of section 115BBE of the Act contemplating the higher rate of tax of 60% was applicable only w.e.f. A.Y. 2018-19 onwards and not applicable to the subject year, i.e, A.Y. 2017-18, does not hold good anymore. Elaborating on his contention, Ld. DR submitted that the Tribunal in its order had drawn support from the principle of liberal construction of a statutory provision and had relied upon the order of the "Single Judge" of the Hon'ble High Court of Madras in the case of SMILE Microfinance v. ACIT (supra) and preferred the view therein taken, i.e, the enhanced rate of tax contemplated under section 115BBE of the Act was applicable only w.e.f. A.Y. 2018-19 onwards, as against the view to the contrary view taken by the "Single Judge" of the Hon'ble High Court of Kerala in Maruthi Babu Rao Jadav v. ACIT in WP(c) No. 101 of 2019 dated 22.01.2019, but the said view of the Tribunal as on date does not hold the ground anymore. Carrying his

contention further, the Ld. DR submitted that the view taken by the “Single Judge” of the Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT in WP(c) No. 101 of 2019 dated 22.01.2019 had thereafter been upheld by the “Division Bench” of Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker). The Ld. DR submitted that as on date there is an order of “Division Bench” of the Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker), wherein it has been held that the enhanced rate of tax contemplated under section 115BBE of the Act is applicable from A.Y.2017-18 onwards, therefore, as per the principle of judicial discipline the said order is to be preferred over the order passed by the “Single Judge” of the Hon’ble High Court of Madras in the case of SMILE Microfinance Ltd. vs. ACIT (supra). The Ld. DR had placed on record a copy of the order of the “Division Bench” of Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker).

15. Apropos, the addition of Rs. 11,00,000/-, the Ld. DR submitted that as the assessee had failed to substantiate the source of the amount of cash deposits made in his bank account based on any irrefutable documentary evidence/material, therefore, the same has rightly been held by the lower authorities as having been sourced out of her unexplained money under section 69A of the Act.

16. I have thoughtfully considered the contentions advanced by both parties in the backdrop of the orders of the authorities below.

17. Admittedly, it is a matter of fact borne from record that the Tribunal in its aforementioned orders viz., (i) Ananda Aqua Exports v. ITO, Ward-1 in ITA No. 15/VIZ/2025, dated 13.10.2025; and (ii) Indira Rani Mulpuri v. ITO, Ward-3(5) in ITA No. 134/VIZ/2025, dated 05.12.2025, had relied upon the order passed by the “Single Judge” of the Hon’ble High Court of Madras in the case of SMILE microfinance v. ACIT, WP(MD) no. 2078 of 2020 & 1742 of 2020 dated 19.11.2024 (Mad), and had based on the same concluded that the enhanced tax rate contemplated under section 115BBE of the Act of 60% was applicable from A.Y. 2018-19 onwards. Although the Tribunal in its aforesaid orders and the host of other orders, had referred to the order of a “Single Judge” of the Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT in WP(c) No. 101 of 2019 dated 22.01.2019, wherein taking a view to the contrary it was observed by the Hon’ble High Court that the amendment made available in Section 115BBE of the Act w.e.f 01/04/2017 vide the Taxation Laws (Second amendment) Act, 2016, contemplating the higher tax rate of 60% was applicable from A.Y. 2017-18 onwards, but going by the rule of liberal construction of a statutory provision, it had preferred to rely on the order of the “Single Judge” of the Hon’ble High Court of Madras in the case of SMILE microfinance v. ACIT (supra), and had held that the tax rate of 60% under section 115BBE of the Act is applicable only from A.Y. 2018-19. However, I find that the Tribunal in its earlier orders had not taken cognizance of the fact that the aforesaid order of the “Single Judge” of the Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT in WP(c) No. 101 of 2019 dated 22.01.2019, had thereafter been approved by the “Division Bench” of the

Hon'ble High Court of Kerala in Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker).

18. In my view, as had been brought to my notice by the Ld. DR, and rightly so, as the aforesaid view taken by the “Single Judge” of Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT in WP(c) No. 101 of 2019 dated 22.01.2019 had been approved and upheld by the “Division Bench” of Hon’ble High Court of Kerala in Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker), therefore, considering the fact, that there are two orders of the non-jurisdictional High Courts taking contrary views, viz. (i). order of the “Single Judge” of the Hon’ble High Court of Madras in the case of SMILE microfinance v. ACIT in WP(MD) no. 2078 of 2020 & 1742 of 2020 dated 19.11.2024 (Mad); and (ii). order of the “Division Bench” of the Hon’ble High Court of Kerala in the case of Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker), as per the principle of judicial discipline the order of the “Division Bench” of the Hon’ble High Court of Kerala is to be preferred as against order of the “Single Judge” of the Hon’ble High Court of Madras. My aforesaid view that in a case there are contrary judgments of non-jurisdictional High Courts, wherein one is that of the “Single Judge” and the other is that of the “Division Bench”, then that of the “Division Bench” is to be preferred and adopted is supported by the order of the **ITAT, Mumbai** in the case of **Wockhardt, Mumbai Vs. Deputy Commissioner of Income Tax, Range 10(1), Mumbai, ITA No. 2633/Mum/2015, dated 11/10/2022**, wherein it is held as under:

“9. In the present case, however, we have much simpler and much more objective criteria readily available, which is the strength of the bench of the Hon’ble non-

jurisdictional High Court which have rendered the judgment. There is one decision of the division bench consisting of two Hon'ble judges, and there is another decision of a single judge bench consisting of only one Hon'ble judge. The plurality in the decision-making process makes the decisions of benches with a larger number of Hon'ble judges being placed on a higher pedestal than the decisions of the of the benches with a lesser number of Hon'ble judges. Explaining this principle, Hon'ble Gujarat High Court, in the case of CIT Vs VallabhdasVithaldas [(2015) 56 taxmann.com 300 (Guj)] has observed that “the law of precedent heavily relies on the collective decision-making process where multiple legal minds are simultaneously applied assisted by legal research and presentation of legal arguments. When such materials and legal contentions are processed by several judges, the decision that is rendered even if not unanimous has the advantage of input from larger number of legally trained minds”. As observed by a Full Bench of Hon'ble AP High Court in the case of CIT Vs B R Constructions [(1994) 202 ITR 222 (AP-FC)], “The principles applicable to Courts in India were laid down by Subba Rao, J. (as he then was) in *Dr. K.C. Nambiar v. State of Madras* AIR 1953 Mad. 351, which were approved by a Full Bench of our High Court in *M. Subbarayudu v. State* AIR 1955 Andhra 87... A single Judge is bound by a decision of a Division Bench exercising appellate jurisdiction. If there is a conflict of Bench decisions, he should refer the case to a Bench of two Judges who may refer it to a Full Bench. A single Judge cannot differ from a Divisional Bench unless a Full Bench or the Supreme Court overruled that decision specifically or laid down a different law on the same point”. Of course, as we have already noticed in our discussions earlier, so far as Hon'ble High Courts are concerned, the decisions of one of the Hon'ble High Court do not bind the other High Court, and all the Hon'ble High Courts being in the same tier of judicial hierarchy, it is not the call of judicial discipline either that one High Court follows the other High Court. What is undisputed, however, is the fact that a full bench decision is to be placed at a level higher than a division bench decision and that a division bench decision from the same forum, is to be placed at a level above the single judge bench decision forum. There cannot be two opinions on this aspect of the matter, and that is a universally accepted judicial practice, whereas the principle of following the view in favour of the assessee, as we have seen in our analysis earlier, is subject to several riders. Therefore, so far as choice between a division bench decision of a non-jurisdictional High Court and a single judge bench of a non-jurisdictional High Court is concerned, it is clear that a simple objective criterion of choice will require the division bench decision to be preferred over the single judge bench decision. Therefore, even though the decision of the Hon'ble Madras High Court, in *Vedanta Ltd's* case (supra), cannot be said to per incuriam, for the simple reason that a Hon'ble High Court judgment does not constitute a binding precedent for any other Hon'ble High Court other than the Hon'ble High rendering such a judgment, the judgment of Hon'ble Andhra Pradesh High Court in the case of *Zuari Cements Ltd* (supra), being a division bench decision of Hon'ble non jurisdictional High Court, is required to be followed even if it is contrary to a single bench judgment of another High Court in the case of *Vedanta Ltd* (supra). The impugned assessment order thus cannot be said to be barred by limitation. We uphold the impugned assessment order on this count, and decline to interfere in the matter on this jurisdictional ground. As we are deciding this issue on this short ground alone, all other contentions on merits remain open”

19. I, thus, in terms of my aforesaid deliberations am of a firm conviction that in the backdrop of the judgment of the “Division Bench” of the Hon'ble High Court of Kerala

in the case of Maruthi Babu Rao Jadav v. ACIT [2025] 171 taxmann.com 463 (Ker), which order of the “Division Bench” had not been considered by the Tribunal in its aforesaid orders as had been relied upon by the Ld. AR, the addition made by the AO under section 69A for the A.Y. 2017-18, as per the amendment made available in the statute in Section 115BBE of the Act, vide the Taxation Laws (Second Amendment) Act, 2016 w.e.f 01.04.2017, is liable to be taxed @60%. Accordingly, finding no infirmity in the view taken by the lower authorities who had rightly held that the addition made in the hands of the assessee for the subject year u/s 69A of the Act is to be taxed @ 60%, I uphold the same.

20. Coming to the contentions advanced by the Ld.AR regarding the merits of the addition of Rs. 11 lacs made in the case of the assessee, I find substance in the Ld.AR’s contention that, as per the CBDT Instruction No. 3/2017, dated 21.02.2017, an amount of Rs. 2,50,000/- can safely be held to be available with the assessee at the time of making the subject cash deposits during the demonetization period. Accordingly, I herein direct the AO to restrict the impugned addition made by him in the hands of the assessee under section 69A of the Act to Rs. 8,50,000/- [Rs. 11,00,000/- (minus) Rs. 2,50,000/-].

21. Resultantly, the appeal filed by the assessee is partly allowed in terms of my aforesaid observations.

Order pronounced in the open court on 19<sup>th</sup> February, 2026.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated:19.02.2026

\*\*Giridhar, Sr.PS

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

1. निर्धारिती/ The Assessee : **SriLakshmi Devireddy**  
D.No. 9-58, Loyabata Road  
Nunna, Vijayawada – 521212  
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer, Ward-3(5)**  
Vijayawada
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