

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.565/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2013-14)**

Nandyala Naga Venkata Raju D.No. 4-77, Pedda Veedhi Ganapavaram West Godavari District – 534198 Andhra Pradesh [PAN: AFDPN1875L]	Vs.	Income Tax Officer Ward – 1 Income Tax Office Aayakar Bhavan, Sajapuram Tanuku – 534211 Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N. Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Badicala Yadagiri, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	17.02.2026
घोषणा की तारीख/Date of Pronouncement	:	27.02.2026

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 08.01.2025, which in turn arises from the order passed by the Assessing Officer

(for short, “A.O”) under section 147 r.w.s, 144 of the Income-Tax Act, 1961 (for short, “the Act”), dated 15.03.2025 for the Assessment Year 2013-14. 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 Commissioner of Income Tax (Appeals) is not justified in deciding the appeal ex-parte.
3. The notice issued u/s 148 is not in accordance with law and as such the learned Commissioner of Income Tax (Appeals) ought to have quashed the notice as invalid and consequently the learned Commissioner of Income Tax (Appeals) ought to have held that the entire reassessment proceedings are void-ab-initio.
4. The learned Commissioner of Income Tax (Appeals) ought to have held that the assessing officer is not justified in considering the amount paid for purchase of fish as unexplained and making addition of Rs.2,29,06,560 u/s 69A of the Act.
5. The learned Commissioner of Income Tax (Appeals) ought to have held that the assessing officer is not justified in making addition of Rs.97,06,793 by estimating profit @ 80% of total credits in the bank account (other than the amount of Rs.2,29,06,560 subjected to addition u/s 69A of the Act).
6. Any other ground that may be urged at the time of appeal hearing.”

2. Succinctly stated, the A.O based on the information that though there were credits of Rs.14,56,41,000/- [including cash deposits] in the assessee’s bank account with ICICI Bank bearing account NO. 044005001458 but he had not filed his return of income for the subject year, initiated proceedings under section 147 of the Act. Notice under section 148 of the Act dated 23.03.2021 was issued by the A.O. However, the assessee did not file his return of income.

3. Thereafter, the A.O in the course of the assessment proceedings observed that there were total cash credits of Rs.14,42,41,478/- in the bank account No. 044005001458 with ICICI Bank Limited during the year under consideration.

4. On being queried, it was the claim of the assessee that the deposits in his aforementioned bank account pertained to the collection of the sale proceeds of fish purchased from the farmers, which were thereafter withdrawn and paid / transferred to the farmers after deducting his commission. Also, the assessee to substantiate his aforesaid claim had filed before the A.O details of fish farmers and the ledger extracts, confirmation letters, Aadhar and copy of ledger account of commission income. However, the A.O observed that assessee had under booked his commission by showing excess payment of the amounts given to fish farmers. Apart from that, the A.O observed that the claim of the assessee that he was in receipt of commission income from fish farmers was not supported with any documentary evidences i.e, invoice, bills, vouchers and details regarding the persons to whom the fish were sold. The A.O after considering the explanation of the assessee observed that the list of fish farmers furnished by him included ten children of age 13 to 19 years, to whom an amount of Rs.2,29,06,560/- was claimed to have been paid. As the assessee on being queried about the aforesaid issue had failed to come forth with any explanation, therefore, the A.O made an addition of the aforementioned amount of Rs.2,29,06,560/- as the assessee's unexplained money under section 69A of the Act.

5. Apropos, the balance amount of Rs. 12,13,34,918/- [Rs.14,42,41,478/- – Rs.2,29,06,560/-] the A.O held the same as the business receipts of the assessee on

which he computed his income @8% i.e., Rs.97,06,793/-. Accordingly, the A.O vide his order passed under section 147 r.w.s 144 rw.s 144B of the Act, dated 15.02.2023 determined the income of the assessee at Rs.3,26,13,350/-.

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

7. Shri G.V.N. Hari, Advocate, 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 176 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 was suffering with multiple medical ailments i.e, hypertension and urinary tract infection which on becoming severe during the 3rd week of March, 2025 had left him with abdominal pain, fever and weakness. Elaborating further on his contention, the Ld.AR submitted that the assessee due to aforesaid medical ailments had remained under medical treatment and was advised to take complete bed rest. The Ld.AR submitted that as the assessee had remained under treatment during the period from 20.03.2025 to 21.09.2025, therefore, for the said reason he could not attend to his work and file the present appeal. It was submitted by him that the assessee had thereafter filed the appeal on 23.09.2025 which by the time involved a delay of 176 days. The Ld.AR to support his aforesaid contentions had taken us through the application for condonation of delay, dated 03.02.2026 and the supporting “affidavit”, dated 03.02.2026 filed by the assessee along with the copies of medical certificates. The Ld.AR based on the aforesaid facts, submitted that as the delay in filing of the

present appeal had crept in because of certain compelling circumstances and not because of any lackadaisical conduct on the part of the assessee, therefore, the same in all fairness and in the interest of justice be condoned.

8. 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.

9. We have given a thoughtful consideration to the explanation of the assessee regarding the delay involved in filing of the present appeal before us. In our view, as the assessee had substantiated by placing on record an “affidavit” along with the supporting medical certificates which reveals that he during the relevant period was suffering from certain medical ailments, therefore, we are of the view that in all fairness and interest of justice the delay involved in filing the present appeal 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 176 days involved in filing of the present appeal by the assessee before us.

10. Shri G.V.N. Hari, Advocate, Learned Authorised Representative (for short “Ld.AR”) for the assessee, at the threshold of hearing of appeal submitted that the CIT(A) had grossly erred in law and facts of the case in carrying out piecemeal disposal of the appeal by failing to deal with all the specific grounds based on which the assessment was assailed before him. Elaborating on his contention, the Ld.AR submitted that the assessee as per “Ground of appeal No. 4” had specifically assailed the validity of the assessment framed by the A.O vide his order passed under section 147 r.w.s, 144 r.w., 144B of the Act, dated 15.03.2023, for the reason that though the notice under section 148 of the Act was issued with DIN dated 23.03.2021, but the same was served on 17.06.2021 through e-mail. Elaborating further on his contention, the Ld.AR submitted that, the assessee had specifically assailed the validity of the notice issued under section 148 of the Act on the ground that the A.O had erred in law in not taking recourse to the provision under section 148A(b) of the Act, but the CIT(A) had failed to advert to and adjudicate the said specific ground which, thus, had resulted to a piecemeal disposal of the appeal. Carrying his contention further, the Ld.AR submitted that though the CIT(A) had culled out the observations recorded by the A.O in the assessment order but had without adjudicating the aforesaid issue dismissed the appeal.

11. The Ld.AR submitted that considering the aforesaid facts, the matter in all fairness and interest of justice be set-aside to the file of the CIT(A) with a direction to

re-adjudicate the same after affording a reasonable opportunity of being heard to the assessee.

12. Per contra, Shri D. Hema Bhupal, Learned Senior Departmental Representative (for short “Ld. DR”) relied upon the orders of the authorities below.

13. We have given a thoughtful consideration to the contentions advanced by both the Learned Authorised Representatives and perused the orders of the authorities below and the material available on record.

14. Admittedly, it is a matter of fact discernible from the CIT(A) order that the assessee had vide “Ground of appeal No. 4” assailed before him the validity of the assessment on the ground that the notice under section 148 of the Act which was digitally signed and issued with DIN of 23.03.2021, was however served on 17.06.2021 through e-mail. In fact, we find that the aforesaid factual averment of the assessee had been accepted by the A.O at Page 3 / Para 7 of his order, that the assessee had assailed before him the validity of the assessment order passed by the A.O on the ground that he had failed to take recourse to the procedure for issuance of notice under section 148 of the Act as had been made available on the statute by the Finance Act, 2021 w.e.f, 01.04.2021 and thus, not conducted enquiry, and provided opportunity before issuing of the aforementioned notice, therefore, the assessment framed by him, was liable to be quashed for want of valid assumption of jurisdiction.

15. Be that as it may, we find that there is blatant failure on the part of the CIT(A) to adjudicate the aforesaid specific “Ground of appeal No. 4” based on which the

validity of the assessment order was assailed by the assessee before him. We are unable to persuade ourselves to subscribe to the aforesaid piecemeal disposal of the appeal by the CIT(A) and, thus, are constrained to set-aside the matter to his file with a specific direction to adjudicate the aforesaid specific “Ground of appeal No. 4” based on which the validity of the assessment order had been assailed by the assessee before him.

16. We thus, in terms of our aforesaid deliberations set-aside the matter to the file of the CIT(A) for the limited purpose of adjudicating the “Ground of appeal No. 4” as had been raised by the assessee before him.

17. In the result, appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the open court on 27th February, 2026.

Sd/-
(ओंकारेश्वर चिदारा)
(OMKARESHWAR CHIDARA)
लेखा सदस्य /ACCOUNTANT MEMBER
Dated:27.02.2026
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 : **Nandyala Naga Venkata Raju**
D.No. 4-77, Pedda Veedhi
Ganapavaram
West Godavari District – 534198
Andhra Pradesh

2. राजस्व/ The Revenue : **Income Tax Officer**
Ward – 1
Income Tax Office
Aayakar Bhavan, Sajapuram
Tanuku – 534211
Andhra Pradesh

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