

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

(In आयकर अपीलसं./I.T.A. No.1263/Hyd/2025
(निर्धारणवर्ष/ Assessment Year:2017-18)

Satyanarayana Murthy Adapa, Rajahmundry. PAN: AAYPA8644C	VS.	Income Tax Officer, Ward-13(1), Hyderabad.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate (Hybrid mode)
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Ms. Reema Yadav, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	05/03/2026
घोषणा की तारीख/ Date of Pronouncement	:	13/03/2026

ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by Satyanarayana Murthy Adapa ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 16/06/2025 for the A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal:

"1) The order of the learned CIT (Appeals), NFAC is arbitrary, unjust, illegal and contrary to the facts of the case.

2) On the facts and circumstances of the case and in law, the Learned Commissioner (Appeals), NFAC failed to appreciate the fact that, no order u/s 127 was passed for transfer of jurisdiction from ITO, Ward-2(3), Visakhapatnam to ITO, Ward-13(1), Hyderabad and Order u/s 127 was passed by Pr.CIT-4, Hyderabad for transfer of jurisdiction from Ward-13(1), Hyderabad to Circle-13(1) Hyderabad.

3) On the facts and circumstances of the case and in law, the learned CIT(Appeals) failed to appreciate the fact that, in the absence of valid order u/s 127 for transfer of appellant's jurisdiction from Visakhapatnam to Hyderabad, the assessment order passed in the appellant case is without jurisdiction and the assessment order is liable to be quashed.

4) On the facts and circumstances of the case and in law, the Learned Commissioner (Appeals), NFAC ought to have appreciated the fact that, if the appellant original jurisdiction lies with ITO, Ward-13(1), Hyderabad, the notice u/s 143(2) issued in this case is bad-in-law and without jurisdiction and accordingly, the said notice along with the assessment order passed on the foundation of such notice are liable to be quashed.

5) On the facts and circumstances of the case and in law, the Learned Commissioner (Appeals), NFAC erred in confirming the additions of Rs 28,21,222/- under Sec 69A towards cash deposits in bank a/c no. 73061459857 during demonetisation period without appreciating the facts of the case and ignoring the explanations submitted by the appellant on 13-06-2025.

6) On the facts and circumstances, the learned CIT (Appeals), NFAC erred in confirming the action of assessing officer in invoking the provisions of Sec 115BBE of the act and in thereby taxing the entire additions at 60% and levying surcharge at 25% even though the appellant explained the sources.

7) Any other legal and factual ground that may be urged at the time of hearing of the appeal".

3. Also, the assessee has raised the following additional ground of appeal:

"The assessing officer is not justified in levying tax at increased rate of 60% u/s 115BBE of the Act in as much as the amended provisions of S.115BBE of the Act are applicable only from A.Y.2018-2019 onwards."

4. Learned Authorized Representative (“Ld. AR”) submitted that the additional ground so filed is admissible in view of judgment rendered by the Hon’ble Supreme Court in the case of National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC). The Learned Departmental Representative (“Ld. DR”) did not make any objection for admission of the additional ground. The prayer for admission of additional ground noted above which is not in memorandum of appeal is being admitted for adjudication in terms of Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963 owing to the fact that objections raised in additional ground is legal in nature for which relevant facts are stated to be emanating from the existing records.

5. The brief facts of the case are that the assessee is an employee of Andhra Pradesh Grameena Vikas Bank. The assessee filed his return of income for the Assessment Year 2017–18 on 05.08.2017 declaring a total income of Rs.11,28,510/-. The case of the assessee was selected for scrutiny under CASS for examining the issue of cash deposits made during the demonetisation period. Accordingly, notice under section 143(2) of the Income Tax Act, 1961 (“the Act”) was issued to the assessee on 24.09.2018. During the course of assessment proceedings, the assessee failed to comply with various notices issued by the Learned Assessing Officer (“Ld. AO”). On verification of the bank accounts of the assessee, the Ld. AO found that the assessee had deposited cash amounting to Rs.5,00,000/- and Rs.23,21,222/- in two different bank accounts. In the absence of any satisfactory explanation from the assessee regarding the source of the said cash deposits, the Ld. AO treated the entire

cash deposits amounting to Rs.28,21,222/- as unexplained money under section 69A of the Act and completed the assessment under section 143(3) of the Act on 27.12.2019.

6. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the appeal of the assessee and confirmed the addition made by the Ld. AO.

7. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. Under Ground No. 4 of the appeal, the assessee has challenged the validity of the jurisdiction assumed by the Ld. AO in passing the assessment order. In this regard, the Ld. AR invited our attention to the acknowledgement of the return of income filed by the assessee for the Assessment Year 2017–18 placed at page no. 1 of the paper book and submitted that the assessee has declared his address as 554-C, Type-IV, BHEL, Hyderabad-500005, which clearly falls within the territorial jurisdiction of the Assessing Officer at Hyderabad. The Ld. AR also inviting our attention to the notice issued under section 143(2) of the Act placed at page Nos. 2 and 3 of the paper book, submitted that the initial notice under section 143(2) of the Act was issued by ITO Ward-2(3), Visakhapatnam, who is not the jurisdictional Assessing Officer of the assessee. The Ld. AR further invited our attention to the notice issued under section 142(1) of the Act, dated 24.10.2018 placed at page Nos. 6 and 7 of the paper book and submitted that subsequently the case of the assessee was taken up by ITO Ward-13(1), Hyderabad. The Ld. AR further invited our attention to the show cause notice dated 10.12.2019 issued by ACIT Circle-

13(1), Hyderabad placed at page Nos. 9 and 10 of the paper book and submitted that the said officer ultimately passed the final assessment order. Accordingly, the Ld. AR submitted that the jurisdiction exercised by ACIT Circle-13(1), Hyderabad is not valid, as the said officer has not issued any notice under section 143(2) of the Act and therefore the assessment order passed under section 143(3) of the Act is liable to be held invalid.

8. Per contra, the Ld. DR submitted that as per the details available on the Income Tax portal the address of the assessee falls within the territorial jurisdiction of Hyderabad. Accordingly, considering the address of the assessee, the case of the assessee was transferred from ITO Visakhapatnam to ITO Hyderabad through the ITBA system. The Ld. DR submitted that since the address of the assessee was located at Hyderabad, the Assessing Officer at Hyderabad was competent to continue the assessment proceedings and complete the assessment. Therefore, according to the Ld. DR, there is no infirmity in the jurisdiction exercised by the Assessing Officer in completing the assessment under section 143(3) of the Act.

9. We have heard the rival submissions and perused the material available on record. The Ld. AR has challenged the validity of the jurisdiction assumed by the Assessing Officer in completing the assessment. In this regard, we have gone through the acknowledgement of the return of income filed by the assessee for the Assessment Year 2017–18 placed at page no. 1 of the paper book, which is to the following effect:

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT		Assessment Year 2017-18			
[Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4, ITR-5, ITR-6, ITR-7 transmitted and verified electronically]					
Name SATYANARAYANA MURTHY ADAPA		PAN AAYPA8644C			
Flat/Door/Block No 554-C TYPE IV	Name Of Premises/Building/Village	Form No. which has been electronically transmitted	ITR-1		
Road/Street/Post Office	Area/Locality BHEL	Status	Individual		
Town/City/District HYDERABAD	State	Pin/Zip Code 500005	Aadhaar Number/Enrollment ID XXXX XXXX 46		
Designation of AO(Ward/Circle) WARD 2(3), VISAKHAPATNAM	Original or Revised	ORIGINAL			
E-filing Acknowledgement Number 152508700050817	Date(DD/MM/YYYY)	05-08-2017			
1	Gross total income	2	1237861		
2	Deductions under Chapter-VI-A	3	109349		
3	Total Income	3a	1128510		
3a	Current Year loss, if any	4	0		
4	Net tax payable	5	168460		
5	Interest payable	6	0		
6	Total tax and interest payable	6	168460		
7	Taxes Paid	a	Advance Tax	7a	0
		b	TDS	7b	168471
		c	TCS	7c	0
		d	Self Assessment Tax	7d	0
		e	Total Taxes Paid (7a+7b+7c +7d)	7e	168471
8	Tax Payable (6-7e)	8	0		
9	Refund (7e-6)	9	10		
10	Exempt Income	Agriculture	0	10	0
		Others	0	0	0

The return has been electronically uploaded on 05-08-2017 19:04:48 from IP address 223.230.119.151 and has been electronically verified by SATYANARAYANA MURTHY ADAPA in the capacity of _____ having PAN AAYPA8644C on 05-08-2017 19:10:07 from IP address 223.230.119.151 at HYDERABAD using Electronic Verification Code 5GYX9IK7FI generated through Aadhaar OTP mode.

DO NOT SEND THIS ACKNOWLEDGEMENT TO CPC, BENGALURU

10. On perusal of above, we find that the assessee has declared his address as 554-C, Type-IV, BHEL, Hyderabad-500005, which clearly falls within the territorial jurisdiction of the Assessing Officer at Hyderabad.

11. We have also gone through the notice issued under section 143(2) of the Act placed at page Nos. 2 and 3 of the paper book, which is to the following effect:



भारत सरकार/ GOVERNMENT OF INDIA
वित्त मंत्रालय/ MINISTRY OF FINANCE
आयकर विभाग/ INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
WARD 2(3), VISAKHAPATNAM

सेवा में/ To, SATYANARAYANA MURTHY ADAPA 554-C TYPE IV , BHEL HYDERABAD 500005 ,Andhra Pradesh India			
स्थायी लेखा संख्या/ PAN: AAYPA8644C	निर्धारण वर्ष/ AY: 2017-18	नोटिस संख्या / Notice No.: ITBA/AST/S/143(2)/2018- 19/1012534804(1)	दिनांक/ Dated: 24/09/2018

आयकर अधिनियम, 1961 की धारा 143(2) के अधीन नोटिस
Notice under section 143(2) of the Income-tax Act, 1961
सीमित सर्चीशा (कंप्यूटर आधारित सर्चीशा चयन)
Limited Scrutiny (Computer Aided Scrutiny Selection)

महोदय/महोदया/ मेसर्स,
Sir/ Madam/ M/s,

आपको सूचित किया जाता है कि निर्धारण वर्ष 2017-18 के फॉर्म संख्या 152508700050817 के अनुसार आपके द्वारा दिनांक 05/08/2017 को दाखिल की गई आयकर विवरणी को सीमित सर्चीशा के लिए चुना गया है और निम्नलिखित कारणों / मुद्दों को जांच हेतु अभिचिन्हित किया गया है:

This is for your kind information that the return of income filed by you for assessment year 2017-18 vide ack. no. 152508700050817 on 05/08/2017 has been selected for Limited Scrutiny and following issue(s) have been identified for examination:

i. Cash deposit during demonetisation period

2. इस संबंध में, आपको दिनांक 08/10/2018 को 10:00 AM तक साक्ष्य प्रस्तुत करने अथवा साक्ष्य प्रस्तुत कराने का अवसर प्रदान किया जा रहा है जिस पर आप उक्त आयकर विवरणी के समर्थन में निर्भर हैं/रहेंगे।

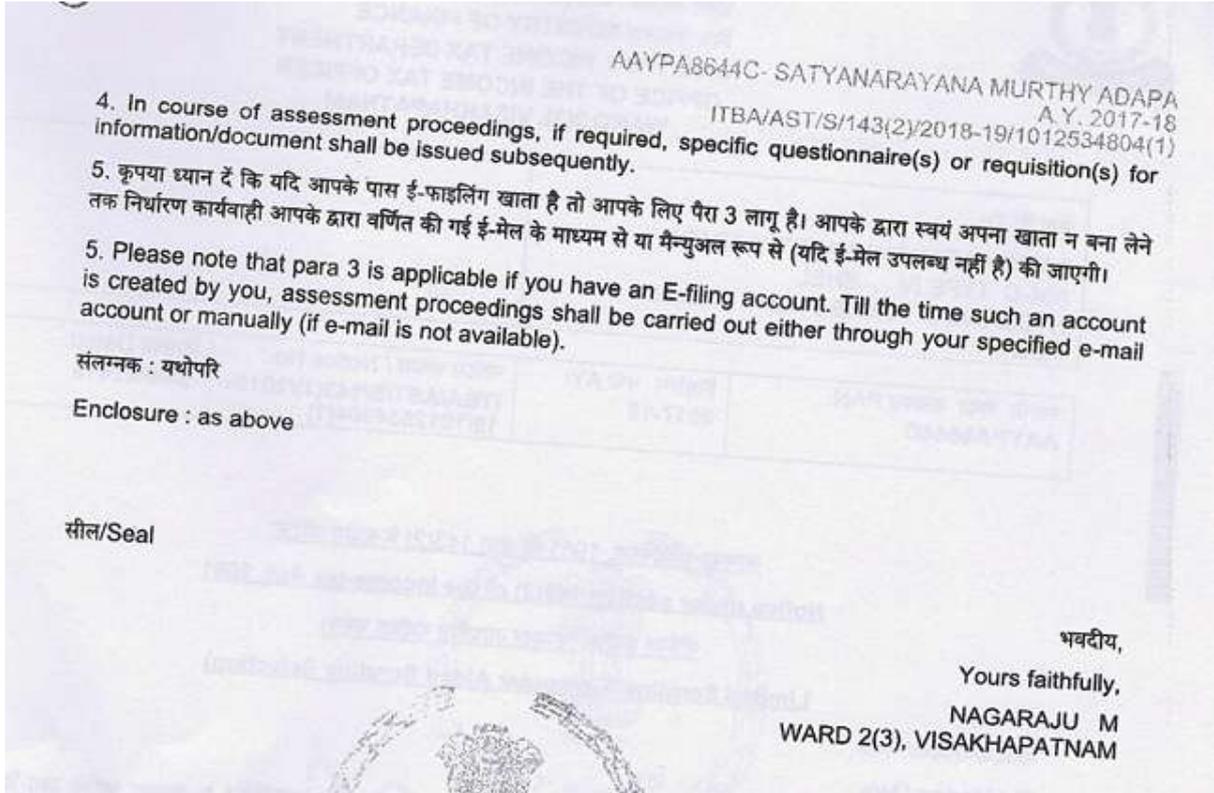
2. In this regard, an opportunity is being given to you to produce or cause to produce any evidence on which you may like to rely in support of the said return of income by 08/10/2018 at 10:00 AM.

3. उपर्युक्त निर्दिष्ट प्रमाण / सूचना को आपको ऑनलाइन माध्यम से इलेक्ट्रॉनिक रूप में incometaxindiaefiling.gov.in पर अपने ई-फाइलिंग खाता द्वारा प्रस्तुत किया जाना है। बाद की निर्धारण कार्यवाही भी आयकर विभाग की 'ई-कार्यवाही' सुविधा द्वारा की जायेगी। 'ई-कार्यवाही' पर एक संक्षिप्त नोट आपके संदर्भ के लिए संलग्न है।

3. The evidence/information specified above has to be furnished online electronically through your E-filing account in Incometaxindiaefiling.gov.in. Subsequent assessment proceedings shall also be conducted electronically through the 'E-Proceeding' facility of Income-tax Department. A brief note on 'E-Proceeding' is enclosed for your kind reference.

4. निर्धारण कार्यवाही के दौरान, यदि आवश्यक होगा तो सूचना /दस्तावेज हेतु विशेष प्रभावली (यों) या अधियाचना (यों) को बाद में जारी किया जाएगा।

Note: If digitally signed, the date of digital signature may be taken as date of document.
AAYAKAR BHAVAN, DABAGARDENS, VISAKHAPATNAM, Andhra Pradesh, 530020
Email: VIZAG.ITO2.3@INCOMETAX.GOV.IN,



12. On perusal of above, it is evident that the notice under section 143(2) of the Act was issued by ITO Ward-2(3), Visakhapatnam, at the Hyderabad address of the assessee. This means that the ITO Ward-2(3), Visakhapatnam, at the time of issue of notice under section 143(2) of the Act was in the knowledge that the territorial jurisdiction of the assessee does not lies with him and it falls within the territorial jurisdiction of Hyderabad ITO. However, without immediately transferring the case of the assessee to the jurisdictional Assessing Officer, he issued the notice under section 143(2) of the Act to the assessee without having any jurisdiction. Therefore, it is confirmed that the notice under section 143(2) of the Act had been issued by an Assessing Officer who did not possess territorial jurisdiction over the assessee. Further, the Revenue has also failed to produce any evidence to substantiate that at the time of issue of notice under section 143(2) of the Act, the jurisdiction of the assessee was with the

ITO Ward-2(3), Visakhapatnam. The Ld. AR has submitted that subsequently the case was handled by ITO Ward-13(1), Hyderabad and finally the assessment order under section 143(3) of the Act was passed by ACIT Circle-13(1), Hyderabad. In this regard, we have gone through the show cause notice issued by the ACIT Circle-13(1), Hyderabad placed at page Nos.9 & 10 of the paper book, which is to the following effect:

9


GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
CIRCLE 13(1),HYDERABAD

To,
SATYANARAYANA MURTHY ADAPA
554-C TYPE IV , BHEL
HYDERABAD 500005 ,Andhra Pradesh
India

PAN: AAYPA8644C	AY: 2017-18	Notice No: ITBA/AST/F/143(3)(SCN)/20 19-20/1022021756(1)	Dated: 10/12/2019	Hearing Date and Time: 12/12/2019 02:00 PM
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SHOW CAUSE NOTICE

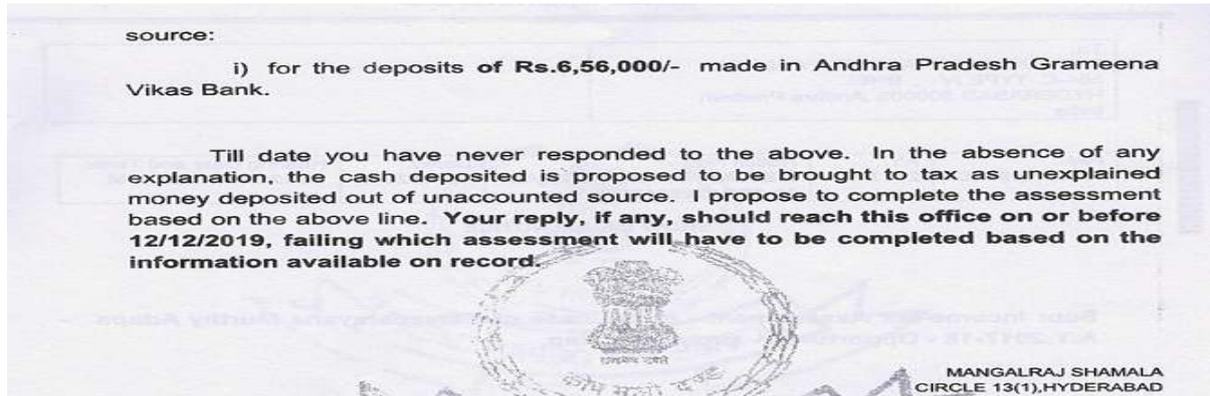
Sub: Income-tax Assessment - In the case of Satyanarayana Murthy Adapa - A.Y.2017-18 - Opportunity provided - Reg.

Ref: (i) This office Notice U/s.142(1) issued on 24-10-2018 and 31-01-2019
ii) Order u/s 127 of the Act of Pr.CIT-4, Hyderabad vide in F.No.ITBA/COM/F/17/2019-20/1020633175(1) dt.18-11-2019.

You are aware that a scrutiny proceeding in your case is under progress for the A.Y. 2017-18.

2. Your case has been notified to this Circle as per Order u/s 127 of the Act passed by the Pr.CIT-4, Hyderabad vide Notification in F.No.ITBA/COM/F/17/2019-20/1020633175(1) dt.18-11-2019 for completion of scrutiny. The case was selected for scrutiny to examine the Cash Deposit during demonetization period.

3. In this regard, Notice U/s.142(1) of the Income-tax Act, 1961 as cited under reference above was issued along with questionnaire requesting you to explain the



13. On perusal of above, it is evident that the show cause notice has been issued by ACIT Circle-13(1), Hyderabad. Further, there is no dispute about the fact that the assessment order has been passed by the ACIT Circle-13(1), Hyderabad. According to the Ld. AR, the jurisdictional Assessing Officer at Hyderabad, who ultimately completed the assessment, never issued any notice under section 143(2) of the Act and therefore the assessment order suffers from a fundamental jurisdictional defect.

14. On the basis of our above observation, we find merit in the submission of the Ld. AR that the address declared by the assessee in the return of income clearly falls within the territorial jurisdiction of the Assessing Officer at Hyderabad. In such circumstances, the jurisdiction to issue notice under section 143(2) of the Act was vested with the Assessing Officer having jurisdiction over the assessee at Hyderabad. However, in the present case the notice under section 143(2) of the Act was issued by ITO Ward-2(3), Visakhapatnam, who did not have territorial jurisdiction over the assessee on the basis of the address declared in the return of income. Thereafter the assessment proceedings were continued by the Assessing Officer at Hyderabad and the final assessment

order under section 143(3) of the Act was passed by ACIT Circle-13(1), Hyderabad. It is a settled principle of law that issuance of a valid notice under section 143(2) of the Act is a mandatory requirement for making an assessment under section 143(3) of the Act. In the case of ACIT v. Hotel Blue Moon (321 ITR 362) the Hon'ble Supreme Court has held that service of notice under section 143(2) of the Act is a condition precedent for making an assessment under section 143(3) of the Act and absence of such notice renders the assessment invalid. The Hon'ble Supreme Court in the case of CIT v. Laxman Das Khandelwal (417 ITR 325) has further held that where there is a complete absence of notice under section 143(2) of the Act, the defect goes to the root of jurisdiction and cannot be cured even by the provisions of section 292BB of the Act. In the present case, the notice under section 143(2) of the Act was issued by an Assessing Officer who did not possess jurisdiction over the assessee, whereas the Assessing Officer who ultimately passed the assessment order under section 143(3) of the Act did not issue any notice under section 143(2) of the Act. Thus the mandatory statutory requirement of issuance of notice under section 143(2) of the Act by the jurisdictional Assessing Officer has not been fulfilled. Consequently, the assessment order passed under section 143(3) of the Act by ACIT Circle-13(1), Hyderabad cannot be sustained in law. Accordingly, in the facts and circumstances of the present case, we hold that the assessment order passed under section 143(3) of the Act suffers from a fundamental jurisdictional defect and is therefore liable to be quashed.

15. Since we have quashed the assessment on the ground of lack of valid jurisdiction, the other grounds including the additional ground raised by the assessee do not require any separate adjudication.

16. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 13th March, 2026.

Sd/- (VIJAY PAL RAO) VICE PRESIDENT	Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 13th March, 2026

Okk, Sr. PS

Copy to:

S.No	Addresses
1	Satyanarayana Murthy Adapa, 3-325, HIG 19, APHB Colony, Lalcheruvu, Rajahmundry, Andhra Pradesh-533106.
2	Income Tax Officer, Ward-13(1), Aayakar Bhavan, Hyderabad, Telangana-500004.
3	Pr. CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order

*Senior Private Secretary,
ITAT, Hyderabad.*