

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad
श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A. No.1921/Hyd/2025
(निर्धारणवर्ष/ Assessment Year:2018-19)

Sunitha Malu, Hyderabad. PAN: AFUPM7494R	VS.	Income Tax Officer, Ward-5(1), Hyderabad.
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Smt. S. Sandhya, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Shri D. Praveen, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	26/03/2026
घोषणा की तारीख/ Date of Pronouncement	:	30/03/2026

ORDER

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 (for short, "CIT(A)"), dated 14/08/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 143(3) of the Income Tax Act, 1961 (for

short, “the Act”), dated 22/04/2021. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

- “1) The order of the learned CIT (A) is erroneous both on facts and in law;
- 2) The learned CIT (A) erred in deciding the appeal ex-parte without providing proper opportunity to the appellant herein,
- 3) The learned CIT (A) ought to have decided the issue about the legality of the assessment made and also should have taken into consideration the valuation report of the valuer,
- 4) The learned CIT (A) erred in confirming the action of the Assessing Officer in making addition u/s 50C of the 1.T.Act when the assessment is selected for limited scrutiny of allowability of deduction u/s 57 of the 1.T.Act;
- 5) The learned CIT (A) ought to have held that the addition of Rs.90,20,615/- made towards capital gain is not justified particularly in view of the valuation report;
- 6) The learned CIT (A) erred in determining the share of the sale price in the property at Rs.1,53,43,915/- when the entire property being valued at Rs.2,50,00,000/- and the appellant's share is 1/5 only.
- 7) The learned CIT (A) ought to have considered the fact that the provisions of Sec. 50C of the L.T.Act are not applicable as the value fixed by the valuation cell is less than the amount admitted in the return of income filed by the appellant herein;
- 8) The learned CIT (A) ought to have held that the expenditure claimed under other sources of Rs.5,68,390/- is an allowable deduction;
- 9) Any other ground/grounds that may be urged at the time of hearing;”

2. At the outset, on perusal of the record, we find that there is a delay of 14 days in filing the present appeal before the Tribunal. With respect to the belated filing of the appeal, the Learned Authorized Representative (for short, “Ld. AR”) had drawn our attention to the petition requesting for condonation delay along with an affidavit, dated 16/02/2026 filed by the assessee, wherein it is submitted that

during the relevant period the assessee suffered with severe throat infection coupled with fever and, therefore, was advised bed rest. In support of the above, the assessee also enclosed medical prescriptions along with the affidavit. It was further submitted that due to the ill health of the assessee, though the appeal papers were prepared, but the same could not be uploaded for want of digital signature of the assessee. The Ld. AR submitted that because of the aforementioned reasons, the appeal could not be filed within the prescribed time limit and there was a delay of 14 days. The Ld.AR submitted that since the delay of 14 days was caused due to bona fide reasons and not on account of any lackadaisical conduct of the assessee, the same may be condoned and the appeal may be admitted for adjudication on merits.

3. On the other hand, the Ld. DR did not raise any serious objection to the submission of the Ld. AR.

4. After hearing the Learned Authorized Representatives of both parties and on perusal of the assessee's petition requesting for condonation of delay along with the affidavit filed by the assessee (supra), we are of the considered view that the delay of 14 days in filing of the appeal before the Tribunal had crept in because of the bona fide reasons, i.e., due to ill health of the assessee and the same could not be uploaded in the absence of digital signature of the assessee, therefore, the same constitutes sufficient and reasonable cause. Hence,

we hereby condone the delay of 14 days in filing the appeal and proceed to adjudicate the case on merits.

5. Succinctly stated, the assessee had filed its revised return of income for the AY 2018-19 on 26/12/2018, declaring an income of Rs.23,05,820/-. Subsequently, the case of the assessee was selected for "limited scrutiny" for verifying "large deduction claimed under section 57 (Non-business ITR)".

6. During the course of the assessment proceedings, the AO observed that the assessee, during the subject year, had sold (along with 4 other persons) Shop No.10 on the ground floor of Manjera Majestic Commercial at Kukatpally, Hyderabad on 06/12/2017, wherein her share in the sale consideration amounted to Rs. 45 lakhs. The AO observed that the assessee had disclosed the capital gain on the sale of the shop at Rs. 2,22,477/-, as under:

Sale Consideration:	Rs.45,00,000/-
Less cost of shop	Rs.42,77,527/-
Capital gains	Rs. 2,22,427/-

7. The AO observed that the assessee had both purchased/sold the aforementioned property vide assignment agreements and not through registered sale deeds. Accordingly, the AO held a conviction that the assessee by executing the agreement on 06/12/2017 had extinguished her rights in the subject property, which, thus, had resulted to transfer of the same. Accordingly, the AO was of the view that the profit/gain of Rs.

2,22,427/- disclosed by the assessee in her return of income under the head "income from other sources" was liable to be assessed as "capital gains" in her hands.

8. The AO observed that out of the aforesaid property admeasuring 6453 sq ft. the assessee had sold 3030 sq ft in the year 2014, while for, the balance of 3423 sq ft was sold during the subject year. The AO observed that the deemed sale consideration of the subject property admeasuring 6453 sq ft. was Rs. 4.80 crores.

9. As the stamp duty value of the subject property was not available, the AO resorted to section 50D of the Act and adopted its prevalent market price based on the information retrieved through the portal "The Telangana Land Registration and Stamps Department", as per which the market value of the property was Rs. 24,242/- per sq ft. Accordingly, the AO worked out the market value of the property at Rs. 7,67,19,580/- . Thereafter, the AO worked out the 1/5th share of the assessee in the subject property at Rs.1,53,43,916/-.

10. Thereafter, the AO re-determined the long-term capital gains (LTCG) on the transfer of the subject property at Rs. 90,20,616/-.

11. Ostensibly, as the assessee had objected to the adoption of the market value of the subject property at Rs.24,242/- per sq ft, the AO, had made a reference to the District Valuation Officer (DVO) for

valuation of the property. As the report of the DVO was not received till the framing of the assessment on 22/04/2021, the AO framed the assessment with a specific observation that the order was passed subject to the receipt of the valuation report from the DVO, and suitable remedial action shall be taken as per the extant provisions of the Act. Accordingly, the AO, based on his aforesaid observation, had determined the income of the assessee at Rs. 1,18,94,826/-.

12. Aggrieved, the assessee carried the matter in appeal before the CIT(A). As the assessee had failed to participate in the proceedings before the CIT(A), therefore, he had dismissed the appeal on the ground of non-prosecution and had summarily approved the view taken by the AO. For the sake of clarity, we deem it apposite to cull out the observation of the CIT(A), as under:

5.1 The grounds of appeal, copy of assessment order, submissions of the appellant, statement of facts and Form 35 have been carefully considered and adjudicated as under;

5.2 The appeal was filed by appellant on 21.05.2021 against the order u/s. 143(3) r.w.s. 144B of the IT Act, 1961. In connection to the appeal, opportunities were provided to the appellant to substantiate his grounds of appeal on following dates:

Sl no	Date of Notice	Date compliance	Remarks
1	28.07.2023	09.08.2023	No Response
2	21.02.2025	28.02.2025	No Response
3	04.04.2025	11.03.2025	No Response
4	07.07.2025	14.07.2025	No Response

As can be seen from the above table, as many as four opportunities have been granted. On verification of the ITBA portal, it is observed that all the above-mentioned hearing notices got delivered to email hdmalu@rediffmail.com successfully. It is evident that the appellant is neither filing any details nor availing the opportunity to seek adjournment to file the same during the appellate proceedings under the principle of natural justice, TAX DEP

5.3 In this regard, the reliance is place on the decision of the Hon'ble Supreme Court in the case of B.N. Bhattacharjee and Another (118 ITR 461) wherein it has been held that appeal does not mean merely filing of memo of appeal but also pursuing it effectively. In cases where the appellant does not want to pursue the appeal, appellate authorities have inherent power to dismiss the appeal for non-prosecution as held by the Hon'ble Bombay High Court in the case of M/s Chemipol vs. Union of India in Excise Appeal No. 62 of 2009. While deciding the issue, the Hon'ble High Court of Bombay has referred to the observations of Hidayatullah, Chief Justice (as His Lordship then was) in Sunderlal Mannalal Vs. Nandrandas Dwarkadas AIR 1958 MP 260 wherein it was observed: -

"Now the Act does not give any power of dismissal. But it is axiomatic that no court or tribunal is supposed to continue a proceeding before it when the party who has moved it has not appeared nor cared to remain present. The dismissal, therefore, is an inherent power which every tribunal possesses..."

5.4 This appeal has been filed by the appellant claiming that the action of the Assessing Officer is not supported by facts and laws and that it is unjust. In such a situation, it is for the appellant to furnish submissions with relevant evidence(s), case laws, if any, to support the claim. The 'burden of proof is always on the person who makes the claim. In this case, it is the appellant who has made the claim by filing the appeal. Thus, in cases where a particular receipt is sought to be taxed as income, the initial onus is on the Assessing Officer to prove that it is taxable. Since an appeal is nothing but the claim of the appellant that he has been unduly unjustifiably taxed, it is for the appellant to prove its case. The appellant has not availed any opportunity to do so.

5.5 From the conduct of the appellant as per the facts noted above, it is clear that the appellant does not wish to pursue the appeal. Though the appellant filed appeal but remained non-compliant during the appellate proceedings also and not furnished any evidences to satisfy the appellate authority. Even otherwise on the merits of it also, I do not see any reason to differ with the findings of the AO. Since no attempt has been made by the appellant to discharge its onus. Hence,

respectfully following the above-mentioned judicial pronouncements and in view of the facts of the case, the appeal is hereby dismissed.

6.0 In effect, the appeal filed by the appellant is dismissed.”

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

14. We have thoughtfully considered the contentions advanced by the Learned Authorised Representatives of both parties, perused the orders of the authorities below and considered the material available on record.

15. Smt. S. Sandhya, Advocate, at the threshold of hearing of the appeal, submitted that though the AO had in the course of the assessment proceedings made a reference to the DVO for valuation of the subject property, but as the valuation report was not received by him till the framing of the assessment on 22/04/2021, therefore, he had taken the market value as the deemed sale consideration and computed the long term capital gains (LTCG) on the transfer of the subject property at Rs.90,20,616/-, with a rider that the order was being passed by him subject to the receipt of the valuation report of the DVO, pursuant whereto suitable remedial action can be taken as per extant provisions of the Act. Elaborating on her contention, the Ld.AR submitted that the report of the Valuation Officer-1, Valuation Cell, Hyderabad, dated 30/09/2021 was though received by the AO after the

framing of the assessment by him vide his order passed under section 143(3) r.w.s 144B of the Act, dated 22/04/2021, but he had till date not modified the determination of the long term capital gains (LTCG) despite having specifically stated so in the body of the assessment order. The Ld. AR submitted that as per the Valuation Report, dated 30/09/2021, the fair market value (FMV) of the subject property has been determined at Rs. 2.50 crores (3423 sq ft X Rs. 7303.54 per sq ft). The Ld.AR submitted that the subject matter in all fairness and in the interest of justice be set aside to the file of the AO with a direction to re-determine the capital gains by adopting the deemed sale consideration of the subject property falling to the share of the assessee at Rs.50 lakhs (1/5th of Rs.2.50 crores), i.e., in conformity with the value determined vide valuation report dated 30/09/2021 by the Valuation Officer-1, Valuation Cell, Hyderabad.

16. Per contra, Shri D. Praveen, Learned Senior Departmental Representative (for short, Ld. Sr-DR”) relied upon the orders of the authorities below.

17. We have thoughtfully considered the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

18. Admittedly, it is a matter of fact borne from the record that the AO had determined the long term capital gains (LTCG) on the transfer of

the subject property by the assessee vide an assignment agreement, dated 06/12/2017, by taking the prevalent market price based on the information retrieved through the portal of "The Telangana Land Registration and Stamps Department", i.e., at Rs.24,242/- per sq ft. Be that as it may, the deemed sale consideration in the subject property was worked out in the hands of the assessee at Rs. 1,53,43,916/- with consequential determination of the long-term capital gain at Rs. 90,20,616/-.

19. Admittedly, the AO, while framing the assessment, had pursuant to the objection raised by the assessee to the adoption of the market value of the subject property at Rs. 24,242/- per sq ft. made a reference to the DVO for the determination of the fair market value (FMV). As the valuation report of the DVO was not received till the framing of the assessment on 22/04/2022, the AO has framed the assessment subject to a rider that on receipt of the report from DVO, suitable remedial action will be taken as per the extant provisions of the Act. However, we find that though the report of the Valuation Officer-1, Valuation Cell, Income Tax Department, Hyderabad, dated 30/09/2021 had been received by the AO/Department, Page Nos.30-35 of APB, wherein the fair market value (FMV) of the subject property sold by the assessee (along with 4 co-owners) had been determined at Rs.2.50 crores (3432 sq ft X Rs.7303.54 sq ft), but the said value has not been substituted for

reworking the long term capital gains (LTCG) on the sale of the subject property by the AO.

20. We thus, in terms of our aforesaid observations, set aside the matter to the file of the AO with a direction to consider the valuation report, dated 30/09/2021, received from Valuation Officer-1, Valuation Cell, Income Tax Department, Hyderabad, and re-determine the long term capital gains (LTCG) on transfer of the subject property based on the same.

21. 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 30th March, 2026.

Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखासदस्य/ACCOUNTANT MEMBER	Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिकसदस्य/JUDICIAL MEMBER
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Hyderabad, dated 30/03/2026.

OKK/sps

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	SUNITHA MALU 5-8-512/3, CHIRAG ALI LANE, ABIDS, Hyderabad Telangana-500001.
2.	राजस्व/ The Revenue	:	ITO, WARD-5(1), IT TOWERS, AC GUARDS, Hyderabad, Telangana
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		

5.	The Commissioner of Income Tax
6.	गार्डफाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad.