

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 249/H/2020 Assessment Year: 2016-17		
Venkatappagiri Reddy Pedda Masthan, Anantapur,  PAN - ACUPP6183B  (Appellant)	Vs.	Income-tax Officer, Ward - 3, Anantapur.     (Respondent)
Assessee by:		Smt. S. Sandhya
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		14/06/2021
Date of pronouncement:		18/06/2021

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the assessee is directed against CIT(A), Kurnool's order dated 23/12/2019 for AY 2016-17 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act" on the following grounds:

*" 1. The order of the learned Commissioner of Income-Tax (Appeals) is erroneous both on facts and in law.*

*2. The learned Commissioner of Income-Tax (Appeals) erred in not condoning the delay of 37 days in filing the appeal.*

*3. The learned Commissioner of Income-Tax (Appeals) ought to have considered the submissions made before him and held that the delay was for the reasons beyond the control of the appellant.*

*4. The learned Commissioner of Income-Tax (Appeals) ought to have considered the grounds on merit instead of dismissing the appeal in limine.*

*5. Any other ground that may be urged at the time of hearing."*

2. We notice at the outset that assessee's instant appeals suffer from 09 days delay. To this effect, the ld. counsel for the assessee submitted that due to collecting the relevant papers for filing this appeal from the respective offices caused the impugned delay in filing of the instant appeals. Case law Collector Land Acquisition vs Mst. Katiji & Ors, 1987 AIR 1353 (SC) and University of Delhi Vs. Union of India, Civil Appeal No. 9488 & 9489/2019 dated 17 December, 2019, hold that such a delay; supported by cogent reasons, deserves to be condoned so as to make way for the cause of substantial

justice. We accordingly hold that assessee's impugned delay of 09 days in filing the appeals is neither intentional nor deliberate but due to the circumstances beyond its control. The same stands condoned. Cases are now taken up for adjudication on merits.

3. Brief facts of the case are that the assessee, an individual, deriving income from sale of liquor and sale of ground nut oil in Kothacheruvu filed his return of the AY 2016-17 through e-filing on 17/10/2016 admitting a total income of Rs. 3,00,280/-. The AO completed the assessment by determining the total income of the assessee at Rs. 71,37,398/- by making additions of Rs. 68,37,118/- on account of profit on wine business @ 5%, profit on M/s Raghavendra Oil Mill @ 8% and disallowance of interest payment of Rs. 26,94,760/- on the ground that the loan was not utilized for purpose of business in groundnut oil.

4. Aggrieved, the assessee preferred an appeal before the CIT(A) and the CIT(A) dismissed the appeal of the assessee in-limine by not condoning the delay of 37 days in

filing the appeal by the assessee before him on the ground that there is no sufficient cause shown for the delay in filing the appeal inasmuch as such delay had occurred on account of sheer negligence and inaction on the part of the assessee in adhering to the provisions of law by relying on various case law.

5. Aggrieved by the order of the CIT(A), the assessee is in appeal before the ITAT.

6. In the course of hearing, it was pointed out by the learned counsel of the assessee that the learned CIT(A) had dismissed the appeal without condoning the delay of 37 days in filing the appeal before him and he ought to have considered the grounds on merit instead of dismissing the appeal in-limine. Therefore, it would be in the interest of justice, the matter may be restored to his file for deciding various grounds of appeals on merits. The learned DR agreed with the aforesaid statement of the learned AR.

7. We have considered the facts of the case and the request made by the learned AR. We are of the view that interest of justice will be served if the matter is restored to the file of first appellate authority for deciding various grounds of appeal of the assessee on merits. Accordingly, the CIT(A) is directed to condone the delay of 37 days and afford reasonable opportunity of being heard to the assessee and thereafter decide the appeal on merits. We direct the assessee to appear before CIT(A) on or before 30<sup>th</sup> September, 2021 with all the relevant evidences; at his own risk and responsibility to be followed by three effective opportunities of hearing.

7. In the result, appeal of the assessee is treated as allowed for statistical purposes in above terms.

Pronounced in the open court on 18<sup>th</sup> June, 2021.

**Sd/-**  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(L. P. SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 18<sup>th</sup> June, 2021.

*Kv*

*Copy to :*

<i>1</i>	<i>Venkatappagiri Reddy Pedda Masthan, 4-159, Kamapalyam, Kothacheruvu, Anantatur, AP - 515001.</i>
<i>2</i>	<i>ITO, Ward - 3, Anantapur.</i>
<i>3</i>	<i>CIT(A), Kurnool</i>
<i>4</i>	<i>Pr. CIT, Tirupathi</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>