आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'बी' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' 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, ACCOUNTANT MEMBER

आयकरअपीलसं./**I.T.A.No.642/Hyd/2025**
(निर्धारण वर्ष/ **Assessment Year : 2014-15)**

Nafees Sultana, Hyderabad. PAN : BJHPS5831G		The Income Tax Officer, Ward 14(1), Hyderabad.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri K. Sai Prasad. C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr.Sachin Kumar, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	23.04.2025
घोषणा की तारीख/Date of Pronouncement	:	28.04.2025

O R D E R

प्रति रवीश सूद, जे.एम./**PER RAVISH SOOD, J.M.**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 17.02.2025, which in turn arises from the order passed by the Assessing

Officer (for short "A.O.") u/s 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (for short "the Act") dated 26.03.2022 for A.Y. 2014-15. The assessee has assailed the impugned order on the following grounds of appeal before us:

> "1. That the order of the learned Commissioner of Income Tax (Appeals) dated 17.02.2025, passed under Section 250 of the Income-tax Act, 1961, is contrary to law, facts, and circumstances of the case and is, therefore, liable to be quashed.
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> 2. Under the facts and circumstances of the case, the Honorable CIT(A) violated Section 250(2) of the Income Tax Act by passing the impugned order on 17th February 2025, the same day the appellant was directed to file submissions, thereby depriving the appellant of a reasonable opportunity to present its case and breaching principles of natural justice.
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> 3. That the facts of the case reveal that the learned Commissioner of Income Tax (Appeals) did not issue a show cause deficiency notice under Section 250, thereby failing to provide the appellant an opportunity to rectify or respond to the alleged deficiencies, in violation of the principles of natural justice.
>
> 4.a) That the learned Commissioner of Income Tax (Appeals) erred in confirming the addition of Rs. 1,10,56,130/- received from HY Media and Entertainment Pvt Ltd. as unexplained rental income, without appreciating that the amount was received pursuant to a compromise agreement in a civil case (O.S. No. 881 of 2012), and pertains to arrears of rent from earlier years, hence not taxable in the assessment year 2014-15.
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> b) That the learned Commissioner of Income Tax (Appeals) failed to consider the applicability of Section 25B of the Income-tax Act, 1961, which allows deduction of 30% from arrears of rent received before taxing the same as income under the head "Income from House Property".
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> 5. That the learned Commissioner of Income Tax (Appeals) is not justified in deciding the appeal without condoning the delay thereby depriving the appellant to avail the benefits available under DTVSVS 2024 especially when the appellant had filed Form 1 on 31.01.2025 under DTVSVS 2024."

2. Succinctly stated, the A.O., based on information available as per the ITBA AIMS Module viz., (i) the assessee as per "Form 26Q" had received rent on which tax was deducted at source u/s 194I(b): Rs.1,10,56,000/-; and (ii) the assessee had received interest income, but had not filed her return of income for the subject year, initiated proceedings u/s 147 of the Act. Notice u/s 148 of the Act, dated 29-03-2021 was issued to the assessee. As the assessee during the course of the assessment proceedings failed to file the requisite details, therefore, the A.O. vide his order passed u/s 147 r.w.s. 144 r.w.s. 144B of the "Act" dated 26.03.2022 made an addition of the aforesaid rent receipt and interest income aggregating to Rs.1,10,56,128/-.

3. Aggrieved, the assessee carried the matter in appeal before the CIT(A). Ostensibly, as the appeal filed by the assessee involved a delay of over 7 months, the CIT(A) declined to condone the same.

4. However, the CIT(A), after declining to condone the delay involved in the appeal proceeded and disposed of the same on the issues based on which the impugned order was assailed before

him, viz., (i) as regards the validity of the jurisdiction assumed by the A.O. for initiating proceedings u/s 147 of the Act; and (ii) the merits of the addition of Rs. 1.10 crore (approx.) made by the A.O. As the CIT(A) did not find favor with the contentions advanced by the assessee on both the issues before him, therefore, he upheld the additions and dismissed the appeal.

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

6. We have heard the Ld. Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. Authorized representative of the assessee-appellant to drive home his contentions.

7. Shri. K. Sai Prasad, C.A., the learned Authorized Representative (for short the "Ld. AR") for the assessee, at the threshold of hearing of the appeal, submitted that as the CIT(A) had adverted to and adjudicated the appeal on merits, therefore, as per the settled

position of law it was to be inferred that he had condoned the delay that was involved in the appeal filed before him. The ld.AR to buttress his aforesaid claim has drawn support from the judgment of the Hon'ble High Court of Madras in the case of Vijayeswari Textiles Ltd. Vs. CIT (2002) 256 ITR 560 (Mad). Elaborating on his contention, the Ld. AR submitted that the Hon'ble High Court, had observed, that once the CIT(A) had disposed of the appeal on merits, then, the only inference that could be drawn was that the delay in filing the appeal had been condoned. The Ld. AR submitted that now when the CIT(A) in the present case had disposed of the appeal on the issues based on which the impugned order was assailed before him, viz., (i) as regards the validity of the jurisdiction assumed by the A.O. for initiating proceedings u/s 147 of the Act; and (ii) the merits of the addition of Rs. 1.10 crore (approx.) made by the A.O., therefore, the only inference that can be drawn was that he had impliedly condoned the delay involved in the appeal filed before him. The Ld.AR based on his aforesaid contentions, submitted that in the backdrop of the aforesaid mandate of law, the observation of the CIT(A), wherein he had

refrained from condoning the delay involved in filing the appeal cannot be sustained and is liable to be vacated.

8. Apropos the merits of the case, the Ld. AR submitted, viz. (i). that as the case of the assessee was reopened for the reason that she, despite having received a rental income of Rs. 1.10 crore (supra), had not filed her return of income for the subject year; and (ii). that while framing the assessment an impugned addition was made in the hands of the assessee under the head "Rent receipt", therefore, the A.O. while determining the income of the assessee for the subject year was statutorily obligated to have allowed the notional deduction as contemplated under Section 24(a) of the Act.

9. Per contra, Dr. Sachin Kumar, the Learned Senior Departmental Representative (for short, "Ld. DR") relied on the orders of the lower authorities. The Ld. DR submitted that as nothing was discernible from the record that would reveal that the assessee during the subject year had received any rental income from letting out of a “house property”, therefore, her claim for

statutory deduction u/s 24(a) of the Act was based on misconceived facts, and thus, liable to be rejected.

10. We have thoughtfully considered the contentions advanced by the Ld. Authorized Representatives of both the parties in the backdrop of the orders of the lower authorities.

11. Apropos the contention of the Ld. AR that now when the CIT(A) had disposed of the appeal on both the issues based on which the impugned order was assailed before him, viz., (i) as regards the validity of the jurisdiction assumed by the A.O. for initiating proceedings u/s 147 of the Act; and (ii) the merits of the addition of Rs. 1.10 crore (approx.) made by the A.O., therefore, there was no justification on his part in observing that the delay involved in the filing of the appeal does not merit to be condoned, we find substance in the same. As stated by the ld. A.R, and rightly so, now when the assessee's appeal had been disposed of by the CIT(A) on both the issues based on which the impugned order was assailed before him, therefore, we are unable to fathom that on what basis he had concluded that the delay involved in filing the appeal was not being condoned by him. Our aforesaid view is

supported by the judgment of the **Hon'ble High Court of Madras** in the case of **Vijayeswari Textiles Ltd. Vs. CIT (2002) 256 ITR 560 (Mad)** wherein it was, inter alia, observed that as the Tribunal while declining to condone the delay involved in the appeal, had proceeded with and elaborately considered and rejected the appeal on merits, therefore, it was to be inferred that the Tribunal was itself not convinced that the appeal should be dismissed as barred by limitation. For the sake of clarity, the observations of the Hon'ble High Court are culled out as under:

> "7. Matters relating to condonation of delay are indeed discretionary and are normally left to the Tribunal and this court will not ordinarily interfere with the discretion. **In this case, as we have already pointed out, the Tribunal did not stop with the order declining to condone the delay, but considered the matter on the merits and has practically treated the appeal as being properly before it and has answered the question brought before it with reference to the material placed on record. It is, in the circumstances, we hold that the Tribunal was in error in not condoning the delay**. The question regarding the correctness of the Tribunal's holding that the delay is not to be condoned is therefore answered in favour of the assessee and against the Revenue."
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> **(emphasis supplied by us)**

12. We thus, in terms of our aforesaid observations, are of the firm conviction, that as the CIT(A) did not stop with the order

declining to condone the delay but had considered the matter on both the issues based on which the impugned order was assailed before him, viz., (i) as regards the validity of the jurisdiction assumed by the A.O. for initiating proceedings u/s 147 of the Act; and (ii) the merits of the addition of Rs. 1.10 crore (approx.) made by the A.O., therefore, the only inference that can be drawn by drawing support from the judgment of the **Hon'ble High Court of Madras** in **Vijayeswari Textiles Ltd. Vs. CIT (supra)** is that he had impliedly condoned the delay involved in the appeal filed before him. We thus, in terms of our aforesaid observation, expunge the observation of the CIT(A) to the extent he had declined to condone the delay involved in the appeal filed before him.

13. Apropos the merits of the case, we find that it is the assessee's claim viz., (i). that as the case of the assessee was, inter alia, reopened for the reason that she despite having received a rental income of Rs. 1.10 crore (supra) had not filed her return of income for the subject year; and (ii). that while framing the assessment an impugned addition was made in the hands of the assessee under the head "Rent receipt", therefore, the A.O. while

determining the income of the assessee for the subject year was statutorily obligated to have allowed the notional deduction as contemplated under Section 24(a) of the Act. We have thoughtfully considered the aforesaid contention and find substance in the same. Admittedly, the case of the assessee was, inter alia, reopened for the reason that the information gathered by the A.O. from the ITBA AIMS Module, revealed that as per "Form 26Q" she had during the subject year though received rent on which tax was deducted at source (TDS) under Section 194I(b) of the Act but had failed to file her return of income. Also, we find that the A.O. while framing the assessment vide his order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 26.03.2022, had thereafter visited the assessee with an addition of "rent receipts" of Rs. 1,10,56,000/- (supra). Considering the aforesaid facts, we are of the view that, *prima facie,* there is substance in the Ld. AR's claim that the A.O. while computing the assessee's income for the subject year ought to have allowed the notional deduction u/s 24(a) of the Act. However, as the aforesaid claim of the assessee cannot be summarily accepted and would require verification, therefore, we

deem it fit to restore the matter to the file of A.O. for re-adjudicating the same in terms of our aforesaid observations. Needless to say, the A.O., in the course of the set-aside proceedings, shall afford a reasonable opportunity of being heard to the assessee, who shall remain at liberty to substantiate her claim based on supporting documentary evidence, if any.

14. Resultantly, the order passed by the CIT(A) is modified and the appeal filed by the assessee is allowed for statistical purposes in terms of our aforesaid observations.

Order pronounced in the Open Court on 28th April, 2025.

Sd/- **(श्री मधुसूदन सावडिया)** **(MADHUSUDAN SAWDIA)** **लेखा सदस्य/ACCOUNTANT MEMBER**	Sd/- **(श्री रवीश सूद)** **(RAVISH SOOD)** **न्यायिक सदस्य/JUDICIAL MEMBER**

Hyderabad, dated 28.04.2025.
##TYNM/sps***

आदेशकी प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Nafees Sultana, C/o. Katrapati & Associates, 1-1-298/2/B3, Sowbhagya Avenue Apartments, 1st Floor, Ashok Nagar, Street No.1, Hyderabad.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward 14(1), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad