



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3529]

**TUESDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR

INCOME TAX TRIBUNAL APPEAL NO: 34/2025

Between:

1. SANTOSH KUMAR GUPTA, . OF LATE RAMESWARLAL GUPTA,
PROP VINAYAKA TRADERS, D.NO. 75-7-6/1A, NAGARJUNA
STREET, BHAVANIPURAM, VIJAYAWADA, ANDHRA PRADESH
- 520 012

...APPELLANT

AND

1. INCOME TAX OFFICER, Ward-1 (2), C.R. Buildings, M.G. Road,
Vijayawada, Andhra Pradesh.

...RESPONDENT

Appeal under section _____ against orders Pleaded to prayed that the above order of the ITAT in M.A.NO.38/VIZ/2022 in ITA. NO.78/VIZ/2020, dt. 13.6.2024 read with order in ITA NO. 78/VIZ/20.dt. 10.6.2022 for the A.Y.2009-10 may be ordered to be QUASHED in-limine and/or the same may be remitted back to the ITAT, VSP for DENOVO ADJUDICATION Of the issues urged in the Original appeal in Form No.36 and that of M.A. cited SUPRA, so as to be in consonance with the mandatory provisions contained in the enacted law and also judge made law.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may

be pleased to condone the delay of 708 days in filing the ITTA against the Income Tax Appellate Tribunal, Visakhapatnam in M.A. 38A/iz/2022 in I.T.A.No. 78A/iz/2020 dt: 13.06.2024 for the Assessment year 2009-2010 in the interest of justice and to pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 153 days in representing the instant Petition bearing .No. 34 of 2025, dated 15.10.2024 and pass such

Counsel for the Appellant:

1. B V S CHALAPATI RAO

Counsel for the Respondent:

1. Y N VIVEKANANDA

The Court made the following judgment: (*per Hon'ble Sri Justice R Raghunandan Rao*)

The appellant herein had approached the Income Tax Appellate Tribunal by way of ITA No.78/Viz/2020, for the assessment year 2009-10, being aggrieved by the order of assessment passed against the appellant. This appeal came to be dismissed on 10.06.2022. Thereafter, the appellant moved this Court by way of ITTA No.32 of 2025. This appeal came to be dismissed by this Court on 27.01.2026, on the ground of inordinate delay in the filing of the appeal.

2. The appellant, even before the said appeal came to be filed before this Court, had moved MA No.38/Viz/2022, before the Income Tax Appellate Tribunal, seeking recall of the order passed in ITA No.78/Viz/2020, dated 10.06.2022. The ground for such recall was that, the Tribunal had not adjudicated the grounds No.2, 3, 4 & 5 of the original appeal. This application came to be dismissed by the Tribunal on 13.06.2024. Aggrieved by the order of dismissal, the appellant approached this Court by way of the present IITA.

3. Sri B.V.S.Chalapathi Rao, learned counsel for the appellant, would contend that, the Tribunal had not considered the said grounds earlier in the original appellate order and had refused to consider these grounds in the miscellaneous application filed before the Tribunal. He would submit that, the manner in which the miscellaneous application had been

dismissed would show that the Tribunal had not considered any of the issues raised by the appellant.

4. A perusal of the order passed by the Tribunal would show that, the Tribunal had considered the contention of the petitioner that, grounds No.2 to 5 had not been dealt with and rejected the said contention by extracting parts of the original order showing that such grounds had been considered and rejected.

5. In that view of the matter, we do not find any reason to interfere with this matter, inasmuch as the Tribunal had considered the said grounds.

6. Accordingly, the appeal is dismissed. There shall be no order as to costs.

As a sequel, pending applications, if any, shall stand closed.

R RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Dt.17.02.2026
DSB

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**HON'BLE SRI JUSTICE R RAGHUNANDAN RAO
AND
HON'BLE SRI JUSTICE T.C.D. SEKHAR**

**IITA.No.34 of 2026
Dated 17.02.2026**

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