

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.126/Asr/2023  
Assessment Year: 2009-10**

Sh. Manjit Singh Shahkot.Jalandhar. [PAN: -EAWPS8763N] <b>(Appellant)</b>	Vs.	ITO-Ward-4, Phagwara  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. J.S. Bhasin, Adv.
<b>Respondent by</b>	Sh. Pradeep Kumar, Sr. DR

<b>Date of Hearing</b>	15.06.2023
<b>Date of Pronouncement</b>	20.06.2023

**ORDER**

**Per: Anikesh Banerjee, JM:**

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income-tax (Appeals)-2, Jalandhar [in brevity CIT(A)], order passed u/s. 250(6) of Income-tax Act, 1961 (in brevity the Act), for assessment year 2009-10. The impugned order was emanated from the order of the Id. Income-tax Officer, Nakodar (in brevity the AO), order passed u/s. 144/147 of the Act.

2. The assessee has taken the following grounds:

*“1. That the ITO Phagwara not being the jurisdictional AO, erred in exercising jurisdiction over tis case, which was assessable by ITO, Nakodar.*

*2. That in the given facts of the case and on law, the ld. CIT(A) misdirected himself in sustaining the initiation of proceedings under sec 147/148 of Income Tax Act, 1961.*

*3. That the ld. CIT(A) erred in confirming the addition of Rs.45,66,990/- for the alleged cash deposits in bank, arbitrarily made by the ld. ITO, without giving adequate opportunity of hearing to assessee.*

*4. That the order under appeal is wholly against law, perverse on facts, against natural justice, hence, liable to be set aside.”*

3. The appeal of the assessee was filed with delay of 1978 days. The assessee filed condonation petition with an affidavit. The assessee mentioned that the assessee fully dependent on the consultant, local Advocate, namely Mr. Puneet Misser of Nakodar. He collected the appeal and advised the assessee to come for filing the appeal before ITAT, Amritsar. That time the assessee suffered loss of his truck and forgot the direction of consultant. The assessee without understanding the legal implications, did the delay for filing. Then after COVID

pandemic was outbreak followed by lockdown. Accordingly further delay was happened. The Id. AR mentioned that COVID Pandemic delay was duly covered by the order of Hon'ble Supreme Court in the case of **Cognizance for Extension of Limitation reported in (2022) 441 ITR 722 (SC) dated 10<sup>th</sup> Jan. 2022**. After that the assessee took initiation for filing the appeal. The Id. AR prayed for condonation of delay of 1978 days for filing the appeal.

4. The Id. AR fully relied on the order of same bench of ITAT-Amritsar in the case of **M.K.Hotels and Resorts Ltd vs ACIT, ITA No. 57/Asr/2021 date of pronouncement 01/03/2023**. Where the 9 years delay of the assessee was condoned. Further relied on Smt. Rajinder Kaur vs ITO, **ITA No. 171/Asr/2022 date of pronouncement 22/03/2023** where 448 days delay was condoned.

5. The Id. DR had not made any objection against the condonation of delay.

6. We heard the rival submission and considered the documents available in records. The averments are self-serving and supporting with substance. We fully relied on order of ITAT-Amritsar Bench, in the case of **M.K.Hotels and Resorts Ltd**. Keeping in view the judgment passed in the case of **S. ChenniappaMudaliar[1969] 74 ITR 41 (SC)**, certainly the right to file appeal cannot be extinguished as the appellant would be left remedy less. Accordingly,

we allowed the condonation for delay of 1978 days and accepted the petition for adjudication.

7. The brief facts of the case is that assessee deposited cash amount to Rs.45,54,000/- in his bank account. The amount was deposited as Show Money for getting the approval of VISA for travelling in foreign country. The amount was retained for 11 months in the bank account of assessee. All the amount was collected from relatives and friends for depositing cash in bank account for VISA purpose. The assessment was framed u/s. 144. The assessee was unable to explain the source of deposit the cash in his bank account. The ld. AO added back the entire amount of Rs. 45,54,000/- with the total income of the assessee. Aggrieved assessee filed an appeal before the ld. CIT(A). The ld. CIT(A) upheld the order of the ld. AO. Being aggrieved, the assessee filed an appeal before us.

8. The ld. AR for assessee first argued that amount was deposited in bank as show money for getting the approval of VISA. The said amount was duly returned to the friends and relatives after 11 months. The assessee is well competent to explain the source of cash deposited in the bank. The ld. AR prayed for setting aside the matter to the ld. AO for further adjudication.

9. The Id. DR vehemently argued and relied on orders of revenue authorities.

10. We heard the rival submission and relied on the documents available in the record. Assessee had not utilized the amount for his own purposes but to return back the money to friends and relatives from whom he collected the same.. The Id. AR specifically mentioned that the said amount is nothing but the show money. The assessee is able to explain the source before the authority. We find it fit to remit the matter back to the file of the Ld. CIT(A) for his objective and meritorious observations and findings on the submissions made by the assessee. Needless to say the assessee be given reasonable opportunity of being heard and the assessee shall also be cooperating for the effective disposal of the appeal and will be at liberty to make further submissions as deem fit. Since the matter is restored to the file of Ld. CIT(A) for meritorious adjudication by passing a speaking order in terms of our observations made hereinabove, we are not expressing any views on the merits of the case so as to limit the appellate procedure before the Ld. CIT(A). The observations herein made by us in remanding the matter back to the file of Ld. CIT(A) will not impair or injure the case of the Revenue nor will it cause any prejudice to the defence/explanation of the assessee. Accordingly, we set aside the impugned order of the Ld. CIT(A) and restore the matter back to the file of the Ld. CIT(A) to decide afresh after

affording reasonable opportunity of being heard to the assessee and the assessee is directed to be diligent in the appellate proceedings.

11. In the result, appeal of the assessee **ITA no. 126/ASR/2023** is allowed for statistical purposes.

**Order pronounced in the open court on 20.06.2023**

Sd/-

**(Dr. M. L. Meena)**  
**Accountant Member**

Sd/-

**(ANIKESH BANERJEE)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order