



**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH "SMC", JABALPUR**

BEFORE SHRI KUL BHARAT, VICE PRESIDENT

ITA No. 7/JAB/2024
Assessment Year: 2011-12

Anand Basantani, Mandla C/o Gurukripa Rice Industries, Padav Road, MP-481661.	v.	Income Tax Officer, Mandla Aayakar Bhawan, Mandla, MP-481661.
PAN:ARQPS8543G		
(Appellant)		(Respondent)

Appellant by:	Shri H. S. Modh, Adv.		
Respondent by:	Shri Bharat Sheogankar, Sr. CIT(DR)		
Date of hearing:	09	01	2025
Date of pronouncement:	09	01	2025

ORDER

PER KUL BHARAT, VICE PRESIDENT.:

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC) dated 05.09.2022 pertaining to the assessment year 2011-12. The assessee has raised the following grounds of appeal: -

"1. That the Ld. National Faceless Appeal Centre (NFAC) has grossly erred in facts and circumstances of the case to confirm the addition of Rs.11,71,067/-.

2. That the assessment order passed u/s 147 r.w.s 144 of the IT Act, 1961, is without proper service of notice u/s 148 of IT Act, 1961.

3. That the addition of Rs.11,71,067/- confirmed by NFAC is not justified.

4. That the Assessee craves leave to raise any other ground/s on or before the date of hearing to prove that the order is bad."

2. It is reported by the Registry that the appeal is barred by limitation for 439 days. The Ld. Counsel for the assessee reiterated the submission as made in the application. The delay in filing was not deliberate but due to reasonable cause he

prayed for condonation of delay. The relevant contents of the application are reproduced as under:-

“1. That I had Filled an Appeal Before the CIT (A) on Dated on 04.05.2016, But Meanwhile Department has announced the OTVSV Scheme, and Assessee has filled the Form No. 1 and Form No. 02 for the Said Pending Appeal on 31.01.2021.

2. That the Assessee was awaiting for issuance of Form No. 03 for necessary. Payment of Demand, but Assessee has not received any real time SMS/eMall communication for Form No. 03 whereas the Form No. 3 was issued t by the department.

3. That Meanwhile the Appeal has been decided on Ex-part and no intimation has been received by me.

4. That no real time communication has been received for the appeal order.

5. That the Assessee was come to know that the Appeal has been decided Exparte when the Assessee has login to reply recovery notice of Department of Extra Demand created in the Assessment order.

6. That due to non-communication of real time there is a delay of 433 days in filing of appeal before your honour hence this affidavit.”

3. On the other hand, the Ld. Departmental Representative (“DR”) opposed the submissions and submitted that the assessee has been negligence in filing of appeal. The assessee cannot take advantage of its negligence and no reasonable cause for non-appearance is stated by the assessee. The condonation application deserves to be dismissed.

4. I have heard the rival submission and perused the material available on record. It is stated by the assessee that the business was closed and the information/notice are not received by the assessee. Therefore, the appeal could not be filed within the time. The reasons stated in the application and looking into the delay of 439 days, I am of the considered view that there was reasonable cause for not filing the appeal in time, hence, the delay is condoned by following the aforesaid reasons. The appeal is admitted for hearing.

5. The facts of the case, in brief, are that the case of the assessee was reopened u/s 147 of the Income Tax Act, 1961 (hereinafter referred as to “the Act”). The Assessing Officer issued notices u/s 148 of the Act that remained un-complied. Therefore, the Assessing Officer proceeded to pass an exparte order against the assessee by assessing the amount deposited in the bank account as unexplained income. Aggrieved by this, the assessee preferred appeal before the Ld. CIT(A) who also dismissed the appeal without advertng to the grounds of appeal. Aggrieved against this, the assessee is in appeal before this Tribunal.

6. Apropos to the grounds of appeal, the Ld. Counsel for the assessee submitted that no effective and meaningful opportunity was granted by the lower authorities. He also contended that the interest of justice for opportunity was given to the assessee.

7. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and supported the orders of the lower authorities.

8. I have heard the Ld. Representatives of the parties and perused the material available on record. It is not in dispute that the business of the assessee was closed and as per the assessee no notice/intimation was received regarding hearing of the appeal. It is noticed that the appeal of the assessee was dismissed by Ld. CIT(A) by way of non-speaking order. The relevant contents of the Ld. CIT(A) is reproduced as under: -

“The appellant was sent notices of hearing/submission on 20.04.2021 & 24.08.2022. There was no reply from the appellant at given address. Therefore, it seems appellant has no interest in pursuing the appeal. Hence, I do not find any reason to interfere with the order passed by the assessing officer. In sum, appeal is dismissed.”

9. From the above, it is clear that the Ld. CIT(A) failed to advert to the submission and the grounds of appeal. Under these undisputedly facts, I hereby set aside the impugned order and restore the assessment to the file of the Assessing Officer to make assessment afresh. Needless to say that the AO would provide adequate opportunity to the assessee. The grounds raised in the appeal are allowed for statistical purposes.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 09/01/2025.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 09/01/2025

Vijay Pal Singh, (Sr. PS)

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar
ITAT, Jabalpur