

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER

ITA No.876/Ind/2024
Assessment Year:2011-12

Rashmi Savla 1 Sawla Niwas, Veer Hakikar Rai Marg Kirimohalla Vidisha (Assessee/Appellant)	<u>बनाम/</u> <u>Vs.</u>	ITO Vidisha (Revenue/Respondent)
PAN: AIEPS8293D		
Assessee by	Shri Ashish Goyal & Shri N.D. Patwa, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	28.01.2025	
Date of Pronouncement	31.01.2025	

आदेश / O R D E R

Per UDAYAN DAS GUPTA, J.M.:

This appeal is filed by the assessee against the order of the Ld CIT (A) dated 30/09/2023, passed u/s 250 of the Act 61 , which has arisen out of the order of the AO , Vidisha, dated 06/12/2018, passed u/s 144 / 147 of the Act 61.

2. The appeal has been filed belatedly with a delay of 378 (three hundred seventy eight) days as pointed out by the registry. The delay has been attempted to be explained by the assessee by an affidavit dated 24/01/2025, where it has been submitted that the order of the Ld CIT (A) has been passed on 30/09/2023 and issued through email and the due date of filing appeal before tribunal expired on 29th November 2024. On coming to know of the fact that the first appeal was disposed of ex-parte, she contacted her counsel Mr Ashish Goyal CA , who prepared and filed this appeal before the tribunal , on 12th December, 2024, which is belated by 378 (*three hundred seventy eight*) days.

2. It is stated by the assessee that the lady is a house wife and is not technology friendly and has got no substantial source of income and due to lack of technical knowledge and guidance , she could not access the portal and was totally unaware of the ongoing appeal proceedings and that is one of the reasons as to why the appellate order before the first appellate authority was also passed exparte .

3. The assessee Ld AR further submitted before the tribunal , that the delay was un intentional and there was no mala fide intention in filing the appeal belatedly and it was due to total ignorance of computer technology on the part of the assessee , the assessee could not operate and have access to the site, and as such it was prayed that the delay may please be condoned and the appeal may please be admitted to be heard on merits.

4. We have seen the records and considered the submissions of the Ld AR and the contents of the affidavit , and we find from the assessment order , that the assessee has made substantial cash deposit in her bank account running into crores, with HDFC Bank and IDBI Bank , during FY 2010-11 , and has ignored to make any response or any compliance , to all the notices issued by the AO , in course of assessment proceedings , resulting in the order being passed exparte by the AO. Subsequently, the assessee has filed her appeal before first appellate authority and has signed in *English language* and subsequently in the affidavit also she has signed in *English* , so the argument of the Ld AR of the assessee that she is illiterate and has no source of funds , are factually incorrect , which is not borne out of the facts on record. Moreover, in appellate proceedings also it is seen that there has been absolutely no compliance to notices issued in email id from the office of the Ld CIT (A) , resulting in the appellate order being passed exparte.

4.1 All the above factual happenings , points to the fact that the assessee is a habitual defaulter and the Ld AR of the assessee, could not explain the reasons for the delay in filing this appeal , for the period 30th September, 2023 (as stated in Form 36) and the actual date of filing on 12th December, 2024, and no such satisfactory reasons are borne out from the contents of the affidavit also. However, considering the factual aspect of the matter, and the plea of the Ld AR of the assessee Mr Ashish Goyal (FCA) , that full papers and documents will be furnished before the AO in fresh proceedings , subject to an opportunity being given , and also in the interest of justice we condone this delay of the assessee in filing the appeal before the tribunal , and we consider it to be a fit case to impose costs of Rs.5,000/- (Rs. Five

Thousand) only, to be deposited by the assessee , to the credit of **Prime Minister Relief Fund (PMNRF)** , and the proof of such deposit is to be produced before the jurisdictional assessing officer.

4.2 Ld. DR has not objection if the delay is condoned.

4.3 As such the delay is condoned and the appeal is admitted to be heard on merits.

5. On the merits of the case , it is seen that it is a case where **ex parte orders** has been passed at both stages , at the assessment stage by the AO , due to non compliance by the assessee and the appeal has also been dismissed by the Ld first appellate authority , without adjudication on merits of the case , in absence of any response or compliance in course of appellate hearing .

5.1 As such considering the prayer of the Ld AR of the assessee , we are of the opinion that , interest of justice will be served by setting aside the matter to the file of the AO for fresh adjudication on merits after considering all papers and documents to be filed by the assessee to explain the source of the cash that is deposited in bank accounts and the assessee is also directed to fully cooperate in fresh assessment proceedings and file all necessary evidences in support of her contention and explanations. Needless to say the assessee will be allowed proper and reasonable opportunity of being heard.

6.As a result the appeal is allowed for statistical purpose.

Order pronounced in the open court on 31.01.2025.

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Sd/-

(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 31/01/2025
Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore