

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 696/PAT/2024
Assessment Year: 2011-2012**

***Sanjay Kumar,.....Appellant
B-20/19, Ved Nagar, Indore Road,
Nanakheda, Ujjain,
Madhya Pradesh-456010, India
[PAN:AMGPK0372B]***

-Vs.-

***Deputy Commissioner /Assistant Commissioner
of Income Tax,.....Respondent
Circle-1, Patna***

Appearances by:

*Shri Ashish Kr. Agrawal, C.A., appeared on behalf of the
assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

Date of concluding the hearing: March 10, 2025

Date of pronouncing the order: March 20, 2025

ORDER

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 30th August, 2024 passed for Assessment Year 2011-12.

2. The appeal is time barred by 45 days in filing the appeal by the assessee. However, the assessee filed a condonation petition through Notary affidavit saying that he was not aware of the order passed by the ld. CIT(Appeals) and there was no communication through e-mail or message on registered mobile number. Besides that, he has not received the physical copy of the order. When the assessee came to know about the order passed by the ld. CIT(Appeals), the assessee approached the ld. A.R. to prefer an appeal, due to that there was a delay of 45 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, I am inclined to condone the delay since the delay is not due to negligence on the part of assessee and the assessee has established sufficient cause to condone the delay. Hence the delay is condoned.

4. Brief facts of the case are that the assessee is an individual, who filed his return of income for the assessment year 2011-12 showing total income of Rs.18,63,160/-. The case was reopened to examine the fresh unsecured loan amounting to Rs.24,60,328/- introduced during the A.Y. 2011-12. The required approval was taken from the competent authority. Accordingly notice under section 148 of the Act was issued through ITBA Notice No. 1009601322 and through Speed Post dated 31.03.2018 and served upon the assessee within the well stipulated time. Later on, notice under section 142(1) of the Act along with questionnaire was also served to the assessee. In response, the assessee uploaded a

written submission and balance-sheet and profit & loss account for A.Ys. 2011-12 and 2012-13. In the written submission, the assessee stated that no amount of unsecured loa was received. The assessee further stated that the amount reflecting in ITR as unsecured loan was taken from Jaidarshini Housing during F.Y. 2009-10 relevant to A.Y. 2010-11, but without any supporting evidence. The assessee was once again given final opportunity to submit the details of persons from whom the loan amount was taken but no satisfactory reply received from the assessee. Hence the ld. Assessing Officer treated the amount of Rs.24,60,328/- as unsecured loan and assessed total income at Rs.43,23,488/-.

5. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

6. The ld. CIT(Appeals) has given several opportunities to the assessee to substantiate his claim, but the appellant did not file the written submissions and did not represent the case before the ld. CIT(Appeals). Thereafter the ld. CIT(Appeals) dismissed the appeal *ex-parte* on 30th August, 2024.

7. On being aggrieved, the assessee preferred an appeal before the ITAT.

8. At the time of hearing, it was the submission of the ld. Counsel for the assessee that ld. CIT(Appeals) passed an *ex-parte* order by upholding the order passed by the ld. Assessing Officer.

Therefore, he pleaded to delete the addition made by the ld. Assessing Officer as confirmed by the ld. CIT(Appeals).

9. At the outset, ld. D.R. brought to my notice that the assessee did not produce the relevant documents as asked by the ld. Assessing Officer during the assessment proceedings. Therefore, the ld. Assessing Officer passed the assessment order assessing the taxable income at Rs.43,23,488/-. Thereafter the assessee preferred an appeal before the ld. CIT(Appeals). The ld. CIT(Appeals) has given many opportunities to the assessee and the assessee neither filed written submission nor any evidence before the ld. CIT(Appeals). He further submitted that before the ITAT, the assessee did not substantiate his claim. Therefore, he pleaded to uphold the orders passed by the revenue authorities.

10. I have heard the rival submissions and perused the material available on record. Considering the facts and circumstances of the case, I am inclined to set aside the order passed by the ld. CIT(Appeals) in order to meet the principle of natural justice, and remit the matter back to the file of ld. CIT(Appeals) with a direction to provide one more opportunity of being heard to the assessee. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits of the case, based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 20/03/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 20th day of March, 2025

*Copies to :(1) Sanjay Kumar,
B-20/19, Ved Nagar, Indore Road,
Nanakheda, Ujjain,
Madhya Pradesh-456010, India*

*(2) Deputy Commissioner / Assistant
Commissioner of Income Tax,
Circle-1, Patna*

*(3) CIT(Appeals), NFAC, Delhi;
(4) CIT - ;
(5) The Departmental Representative;
(6) Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.