

आयकर अपीलीय अधिकरण, कोलकाता पीठ "ए", कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH: KOLKATA

श्री राजेश कुमार, लेखा सटस्य एवं श्री प्रदीप कुमार चौबे, न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Pradip Kumar Choubey, Judicial Member]

I.T.A. No. 2215/Kol/2024
Assessment Year: 2019-20

Avadhesh Kumar Panday (PAN: AYEPP 6636 R)	Vs.	ITO, Ward-2(4), Durgapur
Appellant / (अपीलार्थी)		Respondent / प्रत्यर्थी

Date of Hearing / सुनवाई की तिथि	11.03.2025
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	26.03.2025
For the assessee /निर्धारिती की ओर से	Smt. Swati Baid, A.R
For the revenue / राजस्व की ओर से	Shri Subhendu Datta, CIT DR

ORDER / आदेश

Per Pradip Kumar Choubey, JM:

This is the appeal preferred by the assessee against the order of the Commissioner of Income Tax (Appeals)- NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)] dated 29.07.2024 for AY 2019-20.

2. It appears from the report of the registry that the appeal has been filed after a delay of 39 days for this the assessee has filed condonation petition., which are as follows-

BEFORE THE INCOME TAX APPELLATE TRIBUNAL

'A' Bench; Kolkata

In the matter of:

Avadhesh Kumar Panday

ITA No. 2215/Kol/2024

..... Appellant

vs.

ITO, Ward 2(4), Durgapur

.....Respondent

In the matter of:

An application for condonation of delay for filing appeal before the Ld. Tribunal against the order of the Ld. CIT(A), NFAC, dated 29.07.2024 relevant to AY: 2019 - 2020.

1. That the order was passed u/s 250 of the Act by the Ld. CIT(A), NFAC for AY: 2019-20 on 29.07.2024 was received in email of your petitioner.
2. That the last day filing the appeal was on or around 27.09.2024.
3. That the appeal was filed on 05.11.2024
4. That there is a delay of around 39 days.
5. The delay is explained hereunder -
 - a) That all the notices were issued by the CIT(A) to the email id of your petitioner and none of the notice was issued physically. However, your petitioner was totally unaware about the said notices since I am a layman and not used to check my emails on regular course.

Avadhesh Kumar Panday.

- b) That later on when I enquired about the status of my appeal from my accountant on or around 1st week of November, 2024, thereupon it transpired that an exparte order was already passed.
- c) That due to such situation, no immediate action could be taken.
- d) That then I immediately contacted my tax consultant for filing an appeal before the Ld. Tribunal and handed over the relevant papers to him.
- e) That then the appeal was accordingly prepared by him and the same was deposited at the office of the Tribunal on 05.11.2024 with a delay of 39 days.

In the circumstances, your petitioner prays that the delay in filing appeal before this Ld. Tribunal may kindly be condoned and the appeal be heard on merits or such order/orders be passed as this Ld. Tribunal deems fit and proper.

And for this kind act out of kindness, your petitioner as in duty bound shall ever pray.

Place: Durgapur
Date: 05.03.2025

Avadhesh Kumar Panday

Signature

On perusal of the condonation petition, the reason for delay in filing the appeal seems to be genuine and bonafide. The Ld. D.R did not raise any objection in condoning the

delay. Keeping in view, the condonation petition as well as judicial pronouncement that the case should be decided on merit not on technical issue, the delay is hereby condoned.

3. Brief facts of the case of the assessee is that the case of the assessee was reopened on the ground that the assessee did not file any return of income though there was substantial banking transaction in the relevant year. The AO after issuing show cause notices and considering the submission filed by the assessee, assessed the total income u/s 144 read with Section 147 by making an addition of Rs. 67,32,72,220/- u/s 69A being unexplained money.

4. Aggrieved by the said order, the assessee preferred an appeal before the Ld. CIT(A) wherein the appeal of the assessee has been dismissed for want of prosecution.

Being aggrieved and dissatisfied the assessee preferred an appeal before us.

5. The Ld. Counsel instead of arguing into the merit of the case has only submitted that the assessee has to given an opportunity to place his case before the Ld. CIT(A) as the Ld. CIT(A) dismissed the appeal of the assessee by passing an ex-parte order. The submission of the assessee is that all the notices were issued by the Ld. CIT(A) on the 8e-mail ID of the assessee and the assessee being a layman had totally unaware about the said notice, as a result of which, there was non-compliance before the Ld. CIT(A) and the appeal has been dismissed. The Ld. Counsel for the assessee has filed an Affidavit and prayed that his case is restored back to the file of Ld. CIT(A) for fresh adjudication.

6. Contrary to that the Ld. D.R though supports the impugned order but did not raise any objection in remitting back the appeal of the assessee before the Ld. CIT(A).

7. We have gone through the order passed by the Ld. CIT(A) and find that the order passed by the Ld. CIT(A) is an ex-parte order as there was non-compliance on behalf of the assessee. Affidavit filed by the assessee in this context are as under-



পশ্চিমবঙ্গ পশ্চিম বঙ্গাল WEST BENGAL

03AC 542477

BEFORE THE NOTARY PUBLIC

AFFIDAVIT



I, Avadhesh Kumar Panday, son of Raj Kumar Panday aged about 38 years, by religion Hindu, residing at Moulana Azad City Centre, Durgapur, Pin Code - 713216, do hereby solemnly affirm and state as follows-

1. That an appeal was filed on 21.03.2024 before the Commissioner of Income Tax (Appeal) against the reassessment order dated 30.01.2024 for the AY: 2019-20.
2. That the above-mentioned appeal was dismissed by the Commissioner of Income Tax (Appeal) by passing an ex-parte order dated 29.07.2024 due to non-compliance.

KAMAL KUMAR PAUL
 NOTARY GOVT. OF INDIA
 Regd. No. 2700104
 C.M.'s Court

10 MAR 2025

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3. That all the notices were issued by the CIT(A) to my email id and none of the notice was issued physically. However, I was totally unaware about the said notices since I am a layman and not used to check my emails on regular course.
4. That later on when I enquired about the status of my appeal from my accountant on or around 1st week of November, 2024, thereupon it transpired that an exparte order was already passed.
5. That then I immediately contacted my tax consultant for filing an appeal before the Ld. Tribunal and handed over the relevant papers to him.
6. That then the appeal was accordingly prepared by him and the same was deposited at the office of the Tribunal on 05.11.2024 with a delay of 39 days.
7. That I give an undertaking that proper compliance shall be made in case the abovementioned case is restored back to the lower authorities by the Hon'ble Tribunal.
8. That the facts stated in para 1 to 6 are true to the best of my knowledge and belief and paragraph 7 is an undertaking given by me.

Place: Kolkata

✓ Avadhesh Kumar Pandey.

Date: 10.03.2025

Deponent

KAMAL KUMAR PUL
NOTARY GOVT. OF INDIA
REGD. NO. 2700/04
C.M.No. Court
8 3 Banskhal Street
Kolkata-700004

ATTESTED BY ME
K.P. Pul
KAMAL KUMAR PUL
NOTARY Govt. of India
REGN NO 2700/04

10 MAR 2025

8. Keeping in view the Affidavit filed by the assessee and for the interest of justice we are inclined to remit back the appeal of the assessee to the file of Ld. CIT(A) for fresh adjudication. The Ld. CIT(A) is directed to pass an afresh order after hearing the assessee and the assessee is also directed to co-operate in the proceedings.

In the result, the appeal filed by the assessee allowed for statistical purposes.

Order is pronounced in the open court on 26th March, 2025

Sd/-

Sd/-

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

(Pradip Kumar Choubey /प्रदीप कुमार चौबे)
Judicial Member/न्यायिक सदस्य

Dated: 26th March, 2025

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Avadhesh Kumar Panday, 69, Moulana Azad City Centre, Durgapur, Burdwan, Bistupur, City Centre, Bardhaman, West Bengal, India-713216
2. Respondent – ITO, Ward-2(4), Durgapur
3. Ld. CIT(A)- NFAC, Delhi
4. Ld. PCIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata