

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

ITA No.60/Agr/2024
Assessment Year: 2015-16

Bhagirath Pakhria, 124, Nanak Ganj, Sipri Bazar, Jhansi, U.P.	Vs.	Income-tax Officer, Ward 2(3)(1), Jhansi.
PAN : AMDPP6709L		
(Appellant)		(Respondent)

Assessee by	Ms. Prarthana Jalan, C.A.
Department by	Sh. Shailender Shrivastava, Sr. DR

Date of hearing	17.02.2025
Date of pronouncement	17.02.2025

ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for assessment year 2015-16, arises against the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre [in short, the "CIT(A)-NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2023-24/1058834137(1) dated 18.12.2023, involving proceedings under section 147 r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties at length. Case file perused.

3. It emerges during the course of hearing at the outset that the learned lower authority has refused to condone the assessee's 314 days' delay in filing of the lower appeal instituted on 02.03.2023 against the assessment order dated 23.03.2022. There is hardly any dispute between the parties that the assessee has indeed filed its corresponding explanation attributing the reasons thereof to the circumstances beyond his control. The Revenue's case in this backdrop is that the assessee although has filed explanation for delay in the lower appellate proceedings, but the same hardly inspire any confidence and therefore, it has been rightly rejected.

4. We have given our thoughtful consideration to the assessee's lower appeal condonation application and find merit therein. This for the precise reason that they have indeed made out a case to condone the delay, in the corresponding averments filed before the lower authorities. Faced with this situation we condone the delay in light of Collector, Land Acquisition vs. Mst. Katiji & Ors., (1987) 167 ITR 471 (SC).

5. We now adjudicate on the merits of the case wherein learned lower authorities have set into motion section 148/147 proceedings against the assessee for the reason of computing capital gains by invoking section 50C of the Act, but ended up making section 69A unexplained money addition only which is not sustainable in light of CIT Vs. Mohmed Juned

Dadani [(2013) 258 CTR 268 (Guj.), Ranbaxy Laboratories Ltd. vs. Union of India (2011) 336 ITR 136 (Del.) and CIT vs. Jet Airways (India) Ltd. (2011) 331 ITR 236 (Bom.). We, thus quash the impugned reopening on this first and foremost legal issue which renders all other pleadings as academic. Ordered accordingly.

6. This assessee's appeal is allowed.

Order pronounced in the open court on 17.02.2025

**Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER**

**Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Dated:17.02.2025

*aks/Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra