

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.148/RPR/2025

निर्धारण वर्ष / Assessment Year : 2013-14

Shrikant Sharma
Village: Birjhapur, Taluka: Dhamdha,
Dist: Durg-491 331 (C.G.)
PAN: CAYPS4948D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-2(1), Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sunil Kumar Agrawal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 17.04.2025

घोषणा की तारीख / Date of Pronouncement : 17.04.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 23.08.2024 for the assessment year 2013-14 as per the grounds of appeal on record.

2. At the very outset, the Ld. Counsel for the assessee submitted that as pointed out by the registry, ITAT, there is delay of 145 days. The Ld. Counsel submitted that actual days of delay is 154 days. This was also conceded by the Ld. Sr. DR. Therefore, it is apparent that the calculation of the days regarding limitation has wrongly been informed to the assessee by the registry. However, condoning the technical defect, I proceed to consider the merits in the condonation petition as well as affidavit filed by the assessee. Referring to the condonation petition, the Ld. Counsel submitted that the assessee is 67 years old having heart problem. The assessee is a farmer having no knowledge about the income tax laws. The Ld. Counsel further submitted that the said delay was caused due to circumstances beyond the control of the assessee and it falls within the category of ordinate delay which may therefore be pardoned and the case may be taken up for hearing on merits.

3. I have considered the condonation petition along with affidavit and it is noted that reasons of delay cannot be attributed to any deliberate or malafide conduct on the part of the assessee, if any. The revenue has not brought on record any evidence to show such act on the part of the assessee where it can be said that the delay of 154 days had occurred due to some deliberate conduct of the assessee neither the revenue has brought on record anything which suggest that the assessee purposively had tried to delay the process of litigation. In this backdrop of the aforesaid facts, I take guidance from the judgment of the Hon'ble Supreme Court in the case of **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025** wherein the Hon'ble Apex Court had observed that a justice oriented and liberal approach ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. Also, the **Hon'ble High Court of Chhattisgarh** in the case of **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025**, after relying on the judgment of the Hon'ble Supreme Court in the case of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur (supra) had held that a justice oriented and liberal approach be adopted while considering the application filed by the assessee for condonation of delay.

4. That in the recent judgment of the **Hon'ble Supreme Court** in the case of **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025**, the Hon'ble Apex Court while interpreting Section 5 of the Limitation Act, 1963 regarding the condonation of delay in respect of case of land acquisition has observed and held on the aspect of delay that although the delay cannot be condoned without sufficient cause, the merits of the case could not be discarded solely on the ground of delay. A liberal approach, therefore, should be taken in condoning the delay when limitation ground undermines the merits of the case and obstructs the substantial justice. In other words, the objective of the court should be to deliver substantial justice coupled with liberal and judicious approach while deciding the issue of limitation and whenever it is found that the case has merits which needs to be addressed substantially, in such case, the delay should be condoned. Accordingly, the said delay of 154 days involved in the present appeal is condoned.

5. That on merits the facts are that the assessee had made cash deposits in his bank account of Rs.26,03,750/-. Since the assessee could not explain the source of such cash deposits, therefore, the A.O added the same in the hands of the assessee which was thereafter confirmed by the Ld. CIT(Appeals)/NFAC.

6. In the course of proceedings before the revenue authorities, it has been pointed out by the assessee that he is an agriculturist/farmer and having agricultural income and the source of the cash deposits is from such agriculture proceeds. However, the fact remains that the assessee has neither filed return of income originally nor filed return of income in compliance to notice u/s. 148 of the Act. Therefore, it was not possible for the department to determine and investigate regarding the source of such cash deposits in the bank account of the assessee. It is also the fact that during the appellate proceedings before the Ld.CIT(Appeals)/NFAC, a remand report was called for wherein the assessee made submissions before the A.O that the assessee has done transaction of shares with a SEBI registered broker and therefore, in the remand report the A.O has mentioned that there arises a doubt whether the cash deposits are from agricultural income or from income received through transaction of shares.

7. At the time of hearing, the Ld. Counsel for the assessee submitted that the earlier counsel who was dealing with the matter has wrongly reported before the A.O at the time of remand proceedings by submitting that the assessee dealt with shares through registered broker of SEBI, but the fact remains as has been disclosed in the sworn in affidavit filed by the assessee before the bench that the assessee has never ever made any

transaction through any broker of SEBI. Rather, the assessee is only having agricultural income. These facts were also accepted by the Ld. Sr. DR. The Ld. Sr. DR could not provide any evidence refuting these facts or could not show that the assessee did transact in shares.

8. In my considered view, in the interest of justice, the factual matrix needs to be revisited through proper verification at the level of the Ld. CIT(Appeals)/NFAC to understand what exactly is the source of income of the assessee. That as has been claimed in the affidavit that the assessee is only having income from agriculture proceeds, these facts needs to be verified. Further, it was contented by the Ld. Counsel that the amount of Rs.26,03,750/- which was deposited in the account of the assessee was not a single transaction. Rather, it is the culmination of small amounts which was regularly deposited in the bank account of the assessee. These are the essential facts whose examination goes to the root of the matter.

9. In my considered view, the assessee deserves one final opportunity before the Ld. CIT(Appeals)/NFAC to properly represent the facts and if required, the Ld. CIT(Appeals)/NFAC shall also call for a remand report from the A.O to do the ground verification once again, after being appraised of the proper facts by the assessee. Therefore, I set-aside the order of the Ld. CIT(Appeals)/NFAC and remand back the matter to its file for denovo adjudication while complying with the principles of natural

justice. The assessee is also directed to respond to the hearing notices and represent his case on merits. The Ld. CIT(Appeals)/NFAC shall dispose of the matter within 30 days from receipt of this order.

10. As per the above terms, the grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced in open court on 17th day of April, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 17th April, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur