

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

**BEFORE : SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

ITA No.49/Agr/2025
Assessment Year: 2011-12

Sarswati Vidhya Mandir, Mudan Ka Kua, Datia (MP)	Vs.	Income-tax Officer, Ward 1(3), Gwalior.
PAN : AAJTS9585K		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	03.04.2025
Date of pronouncement	03.04.2025

ORDER

Per Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by assessee against the impugned order dated 25.09.2024 passed in Appeal No.CIT(Appeal), Gwalior/10325/2018-19 by the Ld. Addl./JCIT(A)-3, Ahmedabad u/s. 250(6) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), wherein the ld. First appellate authority dismissed the first appeal of the assessee and confirmed the addition made by the learned Assessing Officer vide assessment order dated 15.12.2018 passed u/s. 143(3) r.w.s. 147 of the Act.

2. Present appeal is noticed to have been filed with a delay of 65 days, which is stated to have been caused due to the impugned order having been sent on inoperative mail through the portal and the assessee being not aware of the technology. It is further stated that when the appellant/assessee approached his consultant, immediate steps were taken for filing the appeal. The reasons assigned by the appellant are not controverted on behalf of the Revenue. We, therefore, condone the delay of 65 days in the interest of justice.

3. Brief facts state that the assessee had not filed his return of income for the impugned assessment year. The case of the assessee was reopened u/s. 147 of the Act. In compliance to the notice issued u/a. 148 of the Act, the assessee filed return of income on 12.12.2018 declaring nil income. The Assessing Officer completed the assessment order u/s. 143(3) r.w.s. 147 of the Act on 15.12.2018 by making addition of Rs.2,26,173/- on account of excess income over expenditure.

4. Aggrieved, the assessee preferred an appeal before the learned CIT(Appeals) who confirmed the addition made by the learned Assessing Officer and dismissed assessee's first appeal.

5. None appeared on behalf of the assessee. However, an adjournment application was placed on record, which was rejected. We

have perused the records and heard the learned Departmental Representative for the Revenue who supported the impugned order.

6. It transpires from the perusal of records that the assessee did not respond to various notices issued by the learned first appellate authority on 12.03.2021, 06.01.2023, 08.02.2023, 01.03.2023, 24.04.2024, 19.06.2023, 09.08.2024 and 12.09.2024. It is however noticed that learned CIT(Appeals) passed ex-parte impugned order without any discussion on the merits of the case, whereas learned CIT(Appeals) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to afford last opportunity to the assessee and remit the matter back to the file of learned CIT(Appeals) for adjudication on merits. We order accordingly. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(Appeals) for the expeditious and effective disposal. Assessee shall refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(Appeals) shall ensure the observance of the principles of natural justice. The appeal is liable to be allowed accordingly.

7. In the result, the appeal is allowed for statistical purposes. The impugned order dated 25.09.2024 is set aside.

Order pronounced in the open court on 03.04.2025.

**Sd/-
(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 03.04.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra