

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.873/Ind/2024
Assessment Year:2013-14

Prakash Mandhwani 18, Old Sindhi Colony, Berasia Road, Bhopal (Assessee/Appellant)	<u>बनाम/</u> Vs.	ITO-3(3) Bhopal (Revenue/Respondent)
PAN: AJPM4920N		
Assessee by	Shri Govind Rinwa, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	24.04.2025	
Date of Pronouncement	28.04.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 30.10.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 23.03.2016 passed by learned ITO, 3(3), Bhopal u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2013-14, the assessee has filed this appeal on the grounds as mentioned in Form No. 36 (Appeal Memo).

2. The background facts leading to present appeal are such that the assessee-individual filed return of AY 2013-14 declaring a total income of Rs. 9,34,160/-. The case was subjected to scrutiny assessment through notices u/s 143(2)/142(1) and the AO completed assessment vide order dated 23.03.2016 u/s 143(3) determining total income at Rs. 87,41,142/- after making certain additions. Aggrieved, the assessee carried matter in first-appeal before CIT(A). The CIT(A), however, dismissed assessee's first-appeal *in limine* as un-admitted finding the same as delayed and not filed within the statutory time period specified in section 249(2) of the Act. Still aggrieved, the assessee has come in next appeal before us.

3. Ld. AR of assessee straightaway drew us to Para 1 of impugned order of CIT(A) to demonstrate certain undisputed basic data i.e. the assessment-order was passed on 23.03.2016; the same was served upon assessee on 02.04.2016; the assessee filed first-appeal to CIT(A) on 13.06.2016. Then, he drew us to Para 3 of impugned order wherein the CIT(A) has computed "01.05.2016" as last date for filing of appeal as per section 249(2) and thereafter observed a delay of approximate 42 days in filing of appeal before him.

4. Ld. AR next drew us to the Circular No. 20/2016 dated 26.05.2016 issued by CBDT, copy of same stands furnished at Page 18 of the documents filed at the time of filing this appeal. Referring to same, Ld. AR submitted that prior to 01.03.2016, the first-appeals could be filed manually

but w.e.f. 01.03.2016, the e-filing of first-appeal was made mandatory. However, there were certain glitches in the system and therefore the CBDT came out with aforesaid Circular extending the time-limit for e-filing of appeals upto 15.06.2016. He submitted that the assessee in present case originally filed physical appeal on 25.04.2016 (acknowledgement of physical filing is furnished at Page 14 of the documents filed at the time of filing this appeal) but thereafter e-filed the same to CIT(A) on 13.06.2016 which is before 15.06.2016 i.e. before the deadline set up by CBDT. Therefore, the first-appeal filed by assessee to CIT(A) was a valid appeal having been filed within the permitted time and the Ld. CIT(A) has inadvertently or wrongly treated the same as delayed. Ld. AR, therefore, prayed to restore this matter to the file of CIT(A) with a direction to treat assessee's first appeal as valid and adjudicate the same on merit.

5. Ld. DR representing revenue instantly agreed to the submission and prayer of Ld. AR.

6. In view of above, we find that the first-appeal filed by assessee to CIT(A) was a valid appeal having been filed within the time set up by CBDT Circular. Therefore, we direct the CIT(A) to treat the assessee's appeal as valid and adjudicate the same on merits. Accordingly, this matter is restored to the file of CIT(A).

7. Before parting, we appreciate the precise and to-the-point submission made by young counsel of assessee in a very lucid manner with reference to relevant documents and we also appreciate the fairness of Ld. DR of revenue in giving instant acceptance.

8. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 28/04/2025

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 28/04/2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore