

**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.05/Agr/2025
Assessment Year: 2010-11

Laxmi Narayan, 5, Village Gadpura, Etmadpur, Chaugan, Agra.	Vs.	Income-tax Officer, Ward 2(1)(2), Agra.
PAN : BIKPN8624A		
(Appellant)		(Respondent)

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

Date of hearing	22.04.2025
Date of pronouncement	22.04.2025

ORDER

Per Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by assessee against the impugned order dated 19.12.2023 passed in Appeal no. CIT(APPEALS)-1, AGRA/10312/2017-18 by the Ld. Commissioner of Income-tax(Appeals)/National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment Year [A.Y.] 2010-11, wherein Id. CIT(A) has dismissed assessee's first appeal.

2. Briefly stating, the assessee is a non filer. After noting that the assessee deposited Rs.29,00,000/- in his saving bank account, permission was taken u/s. 151 of the Act and notice u/s. 148 dated 31.03.2017 was issued and served upon the assessee, requiring him to furnish details in respect of the source of the aforesaid deposit. Assessee filed return of income in response thereof declaring income of Rs.1,15,220/-. Statutory notices were issued and served upon the assessee. However, no compliance was made by the assessee and the assessment was completed u/s. 144 of the Act adding aforesaid amount of Rs.29,00,000/- to the income of the assessee.

3. Assessee preferred an appeal before Id. CIT(Appeals) who dismissed assessee's first appeal ex parte.

4. The assessee has approached this Tribunal on the ground that Id. CIT(Appeals) has erred in confirming the said addition by passing ex parte impugned order.

5. Assessee moved an adjournment application which was rejected. Perused the records and heard learned Departmental Representative for Revenue.

6. At the very outset, it transpires from the perusal of record that there is a delay of 317-318 days in filing appeal before this Tribunal. We have gone through the delay condonation application placed on record on behalf of the assessee. Assessee has stated that the delay was due to illness of the assessee who is 70 years old senior citizen and has developed rigorous medical issues and undergoing medical treatment in M/s. R.S. Charitable Hospital, Station Road, Kuberpur Crossing, Agra. Photocopies of many medical prescriptions have also been enclosed along with the delay condonation application. In the circumstances, we deem it just and appropriate to condone the delay in filing appeal. The delay is accordingly condoned.

7. Ld. DR has stated that the assessee has been negligent before the first appellate authority and did not respond to various notices issued by Id. CIT(Appeals). Supported the impugned order.

8. We notice that notices on as much as on six occasions were issued by the first appellate authority. However, the assessee had been irresponsive to all such notices issued by first appellate authority. The first appellate authority was therefore compelled to pass ex parte order. However, we note that the Id. CIT(Appeals) has passed ex-parte impugned order without any substantial 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.

9. In the result, the appeal is allowed for statistical purposes. The impugned order dated 19.12.2023 is set aside.

Order pronounced in the open court on 22.04.2025.

Sd/-

**(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER**

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 22.04.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra