

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH 'DB' AGRA**

(Through Physical/Virtual Hearing)

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

**ITA No.58/Agr/2025
[Assessment Year: 2018-19]**

Ramkishan, 130, Mahua Kheda Koil, Aligarh, Uttar Pradesh-202001 PAN-BRSPR7689J	Vs	Income Tax Officer, Ward-4(1)(3), Aaykar Bhawan, Civil Lines, Aligarh, Uttar Pradesh-202001
Appellant		Respondent

Appellant	None
Respondent	Shri Shailender Srivastava, Sr. DR

Date of Hearing	03.04.2025
Date of Pronouncement	03.04.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against the order dated 31.01.2024 of National Faceless Appeal Centre, Delhi, relating to Assessment Year 2018-19 arising out of order u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 24.03.2023 by National Faceless Assessment Centre.

2. None appeared on behalf of the assessee, however, the assessee had filed an adjournment petition, which was rejected and the appeal is being decided after hearing the Id. Sr. DR and on the basis of material available on record.

3. The appeal has been filed by the assessee on 31.01.2025 and is delayed by 10 months. In this regard, the assessee has filed a condonation petition which is reproduced as under:-

Application for condonation of delay in filing of appeal.

Respectfully submitted,

1. In this case, the order of the NFAC under Section 250 of the Income Tax Act has been passed on 31.01.2024, against which the appeal is to be filed before the Hon ble ITAT within sixty days from the date of order passed by the NFAC.

That the assessee could not have filed the appeal within the stipulated time allowed under the Income Tax Act. The assessee is filing the appeal against the order passed by the NFAC dated 31.01.2024 which is delayed on account of the reason that the assessee is an illiterate agriculturist having income only from the agriculture, the assessee has no knowledge about operation of computer etc. or e-mail account etc. That the appellant has not given any e-mail account belonged to him before the NFAC. That the assessee has no knowledge about passing of the order by the NFAC being not maintaining any e-mail account. As and when the assessee came to know about passing of the order by the NFAC, he rushed up and has engaged an advocate for filing of the appeal.

That the delay in filing of the appeal is not at all intentional, the assessee was prevented by sufficient cause for not filing the appeal within the stipulated time allowed under the Income Tax Act, the delay in filing of the appeal is Bonafide.

That taking into consideration the facts, stated above, particularly when the assessee is an illiterate person having only income from the agriculture and does not know about the income tax procedure and operation of computer, the delay in filing of the appeal may kindly be condoned and obliged.”

3.1. The explanation of the assessee has been considered and found to be reasonable and *bona fide*. We, therefore, condone the delay and admit this appeal for hearing.

4. Brief facts of the case: The Assessing Officer noted that the assessee is non-filer and initiated proceedings u/s 148 r.w.s. 144B of the Act, where he had reason to believe that income of Rs.89,20,000/- chargeable to tax for the Assessment Year 2018-19 had escaped assessment within the

meaning of section 147 of the Act. The information with the Assessing Officer was that the assessee had sold an immovable property to Sangwan Landco Pvt. Ltd. for a sale consideration of Rs.89,20,000/-. In response to notice u/s 142(1) of the Act, the assessee in his reply dated 02.12.2022 stated that the immovable property sold was an agricultural land but according to the Assessing Officer, the assessee did not furnish any supporting documents. Further, the Assessing Officer noted that the assessee had claimed deduction u/s 48 of the Act towards cost of acquisition with indexation of Rs.57,96,864/- and cost of improvement with indexation of Rs.28,62,931/-. In this regard, the Assessing Officer asked the assessee to furnish the following:-

- i. Purchase deed of the sold property so that the cost of acquisition can be ascertained.
- ii. Details of improvement on the property sold along with supporting documents to substantiate your claim.

4.1. According to the Assessing Officer, the assessee failed to furnish any reply or any relevant documents in support of his claim. The Assessing Officer also noted that in the return of income filed u/s 148 of the Act, the assessee had shown computation of capital gains on sale of immovable property but in his reply dated 02.12.2022, the assessee submitted that the property sold was an agricultural land and no capital gain arises on the sale of the said property, which was self contradictory. Further, he noted that the assessee did not come forward with positive evidence in support of his claim for deduction. Therefore, in absence of any supporting documents, the claim of deduction u/s 48 of the Act of Rs.86,59,795/- (Rs.57,96,864 +Rs.28,62,931/-) was disallowed by the Assessing Officer and added to the total income of the assessee. Before

making the said addition, the Assessing Officer issued a show cause notice on 27.02.2023 fixing the case on 06.03.2023 but again, according to the Assessing Officer, there was no compliance, therefore, the Assessing Officer completed the assessment u/s 147 r.w.s. 144 r.w.s 144B of the Act.

5. Against the said order, the assessee filed an appeal before the Ld. CIT(A). The ld. CIT(A) noted that the appeal filed by the assessee was delayed by 158 days, which he did not condone and the appeal was dismissed as barred by limitation.

6. Against the said order, the assessee is in appeal before us.

7. We have heard the ld. DR and perused the material available on record. In the statement of facts, the assessee submits as under:-

“1. The appellant is a Labour. He sold his agriculture land on dated 25/7/2017 of Rs. 8920000 which the index cost of acquisition was Rs. 8659795. The capital gain is 260205 which is below taxable. The appellant fled his ITR dated 12/04/2022. The appellant purchased agriculture land Rs. 5336250/- and purchase his home Rs. 305000 during the year but Ld. AO has been Treated Rs 8920000/- unexplained money an added the same in the income of The appellant Ld. AO passed order against the appellant. Ld. AO could not be disclosed material facts during the course of assessment proceeding Ld. AO could not give proper opportunity during the course of assessment proceeding.”

7.1. Therefore, even though it appears that the assessee neither filed any condonation application or explained the reasons for the delay of 158 days, but considering the facts stated by the assessee in the statement of facts as above, we are of the considered view that in the interest of justice, the delay of 158 days in filing of the appeal should be condoned and one more opportunity should be given to the assessee to represent its case effectively before the Assessing Officer. We, therefore, condone the said

delay and set-aside the order of the ld. CIT(A) and remit this matter to the file of the Assessing Officer to pass an order afresh after giving a reasonable opportunity of being heard to the assessee. Further, the assessee is also directed to appear before the Assessing Officer. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 3rd April, 2025.

Sd/-
[SUNIL KUMAR SINGH]
JUDICIAL MEMBER

Dated 03.04.2025.

Shekhar

Copy forwarded to:

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

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi,