

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

**(HYBRID COURT)**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

**I.T.A. No. 284/Asr/2024**  
Assessment Year: 2012-13

Showkat Shafi S/o Mohammad  
Yatoo, Yatoo Manzil Nigam  
Chadoora Budgam, Srinagar

Vs.

Income Tax Officer,  
Ward-3(3), Srinagar

[PAN: BONPS 8732R]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. Kushal Chopra, C. A.  
Respondent by : Sh. Manpreet Singh Duggal, Sr. D. R.  
Date of Hearing : 07.04.2025  
Date of Pronouncement : 29.04.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of Id. CIT (A) National Faceless Appeal Centre (NFAC), Delhi dated 14/12/2023 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the Assessing Officer, Ward 3(3), Srinagar dated 09.12.2019 passed u/s 144/147 of the I. T. Act, 1961.

2. **Condonation of delay:-** It is pointed out by the registry that the appeal is belated by 92 days, the assessee has filed an application for condonation of delay along with an affidavit, explaining the delay that the notices and order has been sent from the office of the ld. CIT(A) to the e-mail id of the counsel [tasaduqmairaj@gmail.com](mailto:tasaduqmairaj@gmail.com) and the said counsel has never intimated or informed the receipt of the appeal order to the assessee. It is when the Assessing Officer has started pressing for the outstanding tax demand, the assessee came to know that his appeal has been dismissed by the office of the ld. first appellate authority and thereafter he has contacted his new counsel by whose guidance and help he has managed to file the appeal before the Tribunal on 14<sup>th</sup> May, 2024 which is belated by 92 days and he prayed for condonation of delay for admission of appeal to be heard on merits.

3. The ld. DR has no objection.

4. Considering the contents of the affidavit, we condone the delay and admit the appeal to be heard on merits.

5. The grounds of appeal taken by the assessee in form 36 are as follows:

1. *That the Ld. CIT(A) has erred in passing the order ex-parte and has erred in confirming the order of Assessing Officer without giving any decisions on the merits of the addition made by the Assessing Officer.*

2. *That the Ld. CIT(A) was bound to decide the case on merits even if, he has passed an ex-parte order.*
  3. *That the reliance is being placed on the judgment of Hon'ble Punjab & Haryana High Court in the case of "Munjal BCU Centre of innovation and Entrepreneurships" in CM-3543-CWP-2024, in which, it has been held that the assessee cannot be expected to look into the portal all the times and, as such, it is prayed that the assessment may, please, be set aside to the file of the Assessing Officer and assessee assures full cooperation before the Ld. Assessing Officer.*
  4. *Notwithstanding the above grounds of appeals, the addition of Rs. 56,70,073/- is not sustainable on merits of the case, as well.*
  5. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off."*
6. The brief facts emerging from records are that the case of the assessee was reopened on the basis of information of cash deposits in bank account and in course of assessment proceedings, there is no response and no representation on behalf of the assessee resulting in an ex-parte order with an addition of Rs.56,70,073/-.
7. The matter was carried in appeal before the first appellate authority and the said appeal has been dismissed by the Id. CIT(A) in absence of any response or any representation to several notices of hearing being issued from the office of the Id. first appellate authority on four different dates of hearing. It is also seen from the order of the Id. CIT(A) that notice has been issued on the registered e-mail id as given by the appellant in the memorandum of appeal. In course of hearing, the Id. AR

of the assessee submitted that the notice of hearing has not been received because the said notice has been issued in the e-mail id of the counsel and the counsel has neither informed the assessee regarding the date of hearing nor has he attended the hearing himself. He further submitted that the notices were issued in the e-mail id [tasaduqmairaj@gmail.com](mailto:tasaduqmairaj@gmail.com), of the counsel and he has not filed any request for adjournments and in absence of any information from him no such details and submissions could be filed in course of appellate proceedings, resulting in the ex-parte order passed by the Id. CIT(A). He further submitted that appellant is totally dependent on the counsel who has filed the appeal and since no notices was sent by physical mode to the assessee, the assessee could not file any response and as such he has prayed that the order of the Id. CIT(A) may please be set aside for fresh decision on merits of the case. The Id. AR further submitted that the Id. first appellate authority has not passed a speaking order and has not inquired into the facts of the case that the assessee is running a petrol pump and in this nature of business there is always cash sale and cash deposits in bank account has arisen out of the regular sale proceeds of the business. Moreover, since the Id. CIT(A) has not decided or adjudicated on the grounds of appeal on the merits of the case, he prayed that the appeal may please be set aside back to the files of the Id. first appellate authority for fresh consideration.

8. We have considered the rival submissions and the material available on record and we find that in the instant case, the appeal has been submitted in Form 35 along with the e-mail address [titustitus847@gmail.com](mailto:titustitus847@gmail.com) where notice and communications are required to be sent vide e-mail id.

9. The ld. first appellate authority has issued notice of hearing on four different dates to the specific e-mail id mentioned in the memorandum of appeal in Form 35 and also on the e-mail id [tasaduqmairaj@gmail.com](mailto:tasaduqmairaj@gmail.com). On this issue, we find that the ld. CIT(A) has done all within his powers to issue a proper notice on the proper mail id as provided by the assessee himself on four different occasions and in fact, there has not been any representation or appearances on behalf of the assessee in response to such notices issued in proper e-mail.

10. Now, the contention of the assessee is that his appointed counsel has not intimated the dates of hearing to the assessee and the assessee was not aware of the notices of hearing which seems to be very farfetched explanation. In the instant case, we find that there is absolutely no default on the part of the ld. CIT(A) regarding issue and service of notice through proper e-mail id (*apart from ITBA Portal*), which is a proper service as per the provisions of section 282 of the Act (*read with rule 127 of the IT Rules, 1962*). However, considering the fact and the submissions of the assessee that his counsel has not intimated the dates of hearing, in the interest of

justice, we remand the matter back to the files of the Id. CIT(A) for adjudication of all the grounds contained in Form 35 on merits of the case.

11. However, considering the factual issues and the sequence of event, we consider that there has been negligence on the part of the assessee (and his appointed counsel), and in all fairness, it is proper to impose a token cost of Rs.5000/- (five thousands) on the assessee, payable to the *Prime Ministers National Relief Fund*, evidence of deposits to be produced before the jurisdictional Assessing Officer. The assessee is also directed to file all documentary evidences, written submissions and explanations and to fully co-operate with the Id. first appellate authority for disposal of the appeal.

12. Needless to say, the assessee will be provided with proper and reasonable opportunity of being heard and notices of hearing to be issued as per the provisions of section 282 of the Act.

13. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 29.04.2025.

**Sd/-**  
**(Krinwant Sahay)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

\*GP/Sr.PS\*

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order