

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

**ITA No.705 & 706/Ind/2024 (AY: 2012-13)**

Chain Singh, House No.380 Samavdiya, Near Mandir Chowk, Indore <b>(PAN: FEDPS6184H)</b>	<b><u>बनाम/</u></b> Vs.	Income Tax Officer 2(1), Indore
(Appellant)		(Revenue)
Assessee by	Shri H.N. Joshi, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	07.05.2025	
Date of Pronouncement	13.05.2025	

**आदेश / O R D E R**

**Per Bench:**

The assessee has filed the present appeal Under Section 253 of the Income Tax Act, 1961 (hereinafter referred to as the “Act” for sake of brevity) before this Tribunal as and by way of Second appeal under the Act. The assessee is aggrieved by the order bearing Number ITBA/NFAC/S/250/2024-25/1066750047(1) dated 16.07.2024 passed by the Ld. CIT(A) u/s 250 of the Act which is hereinafter referred to as the “Impugned order”. The relevant Assessment Year is 2012-13 and the

corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

**FACTUAL MATRIX**

2.1 That as and by way of an assessment order made u/s 144 r.w.s. 263 of the Act, the assessee's total assessed income was computed at Rs.1,22,98,300/-. That the assessment order is dated 30.03.2023 which is hereinafter referred to as "**impugned assessment order**".

2.2 That the assessee being aggrieved by the aforesaid "**impugned assessment order**" prefers first appeal u/s 246A of the Act before Ld. CIT(A) who by the "**impugned order**" has dismissed the appeal of the assessee on grounds stated therein.

2.3 That the assessee being aggrieved by the "**impugned order**" has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal in Form No.36 against the "impugned order" which are as under:-

*"1. That the 1 Appellate Authority has also erred in not considered the facts that the Assessing Authority not mentioned the DIN on body of Assessment order.*

*2. That the learned 1<sup>st</sup> Appellate Authority has erred both in law and not considered the facts and documents and passed 1<sup>st</sup> Appeal Order and confirming the Assessment order.*

*3. That the learned 1<sup>st</sup> Appellate Authority has not considered Application of condone delay filed along with affidavit.*

*4. That the learned 1<sup>st</sup> Appellate Authority has also not considered the facts that the department not communicate notice to the Applicant.*

*5. That the learned 1<sup>st</sup> Appellate Authority has not considered the facts that there were genuine reason for preventing to Appellant present before the Assessing Authority.*

*6. That the learned 1<sup>st</sup> Appellate Authority has not considered the facts and documents which was related to sum of Rs. 12245022/- deposited in Saving A/c.*

*7. That thus the 1<sup>st</sup> Appeal order so passed is quite illegal and unjust unwarranted contrary to facts and deserves to be set aside.*

*8. That the appellant further craves have to add alter and or amend any of the forgoing grounds as and when necessary”.*

3.

### Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 07.05.2025 when the Ld. AR for and on behalf of the assessee appeared before us and interalia contended that the “**impugned assessment order**” is illegal, bad in law, and not proper. The “**impugned order**” deserves to be set aside. It was urged that the assessee is a farmer. The cash deposited were proceeds of agriculture land which was sold . That there was a delay of 146 days in filing the 1<sup>st</sup> appeal before Ld. CIT(A) and a condonation

of delay application was preferred. Opportunities were afforded to the assessee to appear and plead the case. The core reason for condonation of delay before Ld. CIT(A) was that the assessee being a farmer is not aware of portal proceedings. Further assessee is a heart patient. Necessary proofs were attached with COD application. Hence there was delay which was genuine and bonafide. It was not deliberate. The Ld. CIT(A) ought to have condoned and consequently 1<sup>st</sup> appeal was dismissed. This tribunal should therefore set aside the **"impugned order"** and should order an appropriate remand if they think fit and proper. Per contra Ld. DR has no serious objection looking to the fact that the assessee is a farmer and a heart patient. At the end of hearing both Ld. AR and DR has left it to this Tribunal to pass appropriate orders in order to meet the ends of justice as assessee had not appeared even before CIT(A) despite opportunities as per **para 3 of "impugned order"**.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the **"Impugned Order"** basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case and after hearing and upon examining the contentions are of the considered view that while it is true that **“opportunities”** were provided to the assessee which were not availed off by the assessee. Even the **“impugned assessment order”** is u/s 144. In brief both original and 1<sup>st</sup> appellate order has not examined the merits of the case. Non appearance and delay have ruled the assessment proceedings as well as the 1<sup>st</sup> appellate proceedings. Under these firing circumstances we feel cost of Rs.5000/- be imposed on the assessee by depositing the same in **“PM Relief Fund”** and upon showing necessary proof of same to the Ld. A.O he should adjudge and adjudicate the matter further afresh. Resultantly we set aside the **“impugned order”** and remand the case back to the file of Ld. A.O to pass a fresh order on *denovo basis*. The assessee is directed to cooperate with the revenue. Assessee is also directed not to seek unnecessary adjournments.

**Order**

5.1 The impugned order is set aside as and by way of remand back to the file of Ld. A.O on *denovo basis* subject to the

necessary proof being shown of payment of Rs.5000/- imposed as cost to the Ld. A.O by the assessee before *denovo* adjudication starts/initiated. Appeal of the assessee is allowed for statistical purpose.

**ITA No.706/Ind/2024**

This appeal deals with the issue of penalty consequent upon quantum assessment (supra) where almost identical factual situation is noticed (supra), Hence this appeal is also disposed off by this common order on identical terms (supra).

In the result both the appeals are allowed for statistical purpose.

Order pronounced in open court on 13.05.2025.

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

Indore  
दिनांक/ Dated : 13/05/2025  
Dev/Sr. PS

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

By order  
Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore