

**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. 59/Agr/2022
Assessment Year: 2011-12

Shri Satya Prakash Bhadoriya, In front of Police Station, Subhash Ganj, Dabra, Gwalior.	Vs.	Principle C.I.T., Gwalior.
PAN : AHHPB6068P		
(Appellant)		(Respondent)

Assessee by	Sh. Rajendra Sharma, Advocate & Sh. Manuj Sharma, Advocate
Department by	Sh. Sukesh Kumar Jain, CIT/DR

Date of hearing	24.04.2025
Date of pronouncement	19.05.2025

ORDER

PER: Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by assessee against the impugned order dated 26.03.2021 passed u/s. 263 of the Income-tax Act, 1961 (hereinafter referred to as "Act") by Pr. Commissioner of Income-tax (PCIT), Gwalior, wherein the assessment order dated 21.12.2018 passed u/s. 143(3) r.w.s. 147 of the Act was set aside and the matter was sent back to learned Assessing Officer for the examination of the issue in respect of cash deposit of Rs.5,00,000/- on 08.10.2010 and Rs.10,00,000/- on 09.10.2010 etc. afresh.

2. At the very outset, it has been informed by learned representative for the appellant/assessee that this appeal was filed on 17.05.2022 against the impugned order dated 26.03.2021 by a delay of about 357 days as reported by the Registry of this Tribunal. Learned AR has submitted in respect of the assessee's delay condonation application supported with assessee's affidavit that the notice u/s. 263 was not served upon the assessee in person. The e-mail ID of assessee's Advocate was given to the department and the assessee was not informed of the said order. The assessee came to know in respect of the impugned order only when consequential order u/s. 143(3) was passed. Learned AR further submitted that another reason for the assessee for not having the knowledge of passing the impugned order is also on account of the outbreak of Covid-19 Pandemic.

3. We take judicial notice of the fact that most of the duration of delay caused in filing appeal before this tribunal overlaps the period of spread of global pandemic COVID-19. This fact has also been taken care of by Hon'ble Supreme Court in Misc. app. No. 21/2022 in Misc. app No. 665/2021 in suo-moto W.P(c) No. 3/2020 in civil original jurisdiction and in re-cognizance of extension of limitation with miscellaneous application No. 29/2022, in miscellaneous application No. 655/2021 in suo-moto petition(c) no. 03/2020 and vide para 5(1) of its order dated 10.01.2022 directed that its order dated 23.03.2020 is restored and in continuation of the subsequent order dated

08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings after exclusion of the aforesaid duration.

4. In view of the uncontroverted affidavit of assessee and the aforesaid directions issued by Hon'ble Supreme Court, we condone the delay.

5. Learned AR has further submitted that the impugned order has been passed ex parte in violation of principles of natural justice. Prayed to set aside the same and prayed to afford an opportunity to the assessee for making submissions before learned PCIT.

6. Learned DR has supported the impugned order.

7. Perusal of the impugned order dated 26.03.2021 passed u/s. 263 of the Act by learned PCIT, Gwalior shows that a notice dated 09.03.2021 was issued to the assessee fixing the date of hearing on 17.03.2021. The assessee did not respond to the only notice issued to the assessee, hence ld. PCIT proceeded to pass the impugned order. In the totality of facts and circumstances of the case 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 PCIT for deciding afresh. We order accordingly. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned PCIT for

the expeditious and effective disposal. Assessee shall refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned PCIT shall ensure the observance of the principles of natural justice.

8. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 19.05.2025.

**Sd/-
(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 19.05.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra