

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

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**I.T.A. No. 631/Asr/2024**  
Assessment Year: 2015-16

Nazia Dar, Gulbahar Colony,  
Hyderpora, Srinagar 190014  
Jammu & Kashmir

Vs.

Income Tax Officer,  
Ward, Katra

[PAN: BKDPD 1232R]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. Upender Bhat, C.A.  
Respondent by : Sh. Charan Dass, Sr. D.R.  
Date of Hearing : 21.05.2025  
Date of Pronouncement : 27.05.2025

**ORDER**

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

This appeal is filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 25.10.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC dated 27.03.2022 passed u/s 147 (r.w.s 144 of the I.T. Act, 1961).

2. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

*“Ground 1: That the Learned CIT(A) has erred in Law and on facts of the case in dismissing the appeal even though complete justification of the late filing by 400 days was properly mentioned and prayed for in Form 35.*

*Ground 2: That the Learned Assessing Officer has erred in Law and on facts of the case in dismissing the appeal without taking cognizance of the circumstances for delay in filing the appeal and ignoring the Principles of Natural Justice.*

*Ground 3: The Learned Assessing Officer erred in making the addition of Rs 90,98,58/ without basis.*

*Ground 4: The Assessee craves to add, alter, delete any ground of appeal before or at the time of hearing of appeal.”*

3. The brief facts of the case are that the Assessing Officer, on the basis of information that the assessee has indulged in financial transaction amounting to Rs.90.98 lacs and has earned interests amounting to Rs. 30.32 lacs, coupled with the fact that no return is filed, and the assessee has also not responded to various notices issued u/s 142(1) of the Act, proceedings were initiated u/s 148 as per provisions of law. Subsequently, return was filed by the assessee u/s 148 and e-verified and notice u/s 143(2) issued, with recorded reasons. Explanation put forth by the assessee has been considered and the assessment was completed on a total income of Rs.1,21,30,691/- (with an addition of Rs.90.98 lacs u/s 69.)

4. The matter was carried in appeal before the ld. first appellate authority but the said appeal has been dismissed by the ld. first appellate authority without admitting the appeal and without considerations of any grounds of appeal on merits of the case.

5. The appeal before the ld. first appellate authority was filed belatedly by 400 days (*four hundred days*) and the explanations submitted by the assessee was not found to be satisfactory, resulting in dismissing the appeal with the following observations:

*“In the instance case, the appellant has not shown any sufficient cause. The reasons cited by the appellant are not found tenable and thus the prayer for condonation of delay file by the appellant is not admissible. The appeal is therefore dismissed in limine under the provision of Sec. 249(3) r.w.s. 250 of the Income Tax Act, 1961.*

*Since, the appellant has not adduced any additional ground(s) and since no ground of appeal has been altered/modified/changed, this ground of appeal is dismissed as “not pressed”.*

6. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. In course of hearing, the assessee has filed an affidavit explaining the delay of 400 days (four hundred) in filing the appeal before the ld. first appellate authority. The ld. AR submitted that the assessee has received the assessment order on 27.03.2022, the appeal against which should have been filed within 30 days thereafter. He further submitted that the assessee is suffering from

*Brest cancer* and was under continuous medical treatment at *VMMC, Safdarganj, Hospital, New Delhi* and was admitted for surgery on 21<sup>st</sup> March, 2022.

7. Further medical papers were also filed relating to her physical health conditions issued by VMMC, which relates to the period March, 2022, date of admission in hospital being 21.03.2022, followed by surgery. Subsequently, treatment was ongoing at *Medanta till Nov., 2023*, at periodical interval. The Id. AR submits, that because of extreme negative health conditions, the assessee could not file the appeal within the time because she was already in hospital when the assessment order was passed and moreover, since it is a case for medical oncology, repeated medical checkups, investigation and various procedures were required.

8. Subsequently, the assessee managed to contact his counsel and with his help, has filed the appeal before the first appellate authority on 13.06.2023 which is belated by *400 days*. He further prayed that considering the medical conditions of the assessee herself which are all supported by medical certificate of various hospitals, the delay in filing the appeal before the first appellate authority may please be condoned and the appeal may please be admitted to be heard on merits.

9. As such, considering the submissions and the facts of the case and the materials on record, we find that the assessee was suffering from cancer and had to

undergo surgery and was prevented by sufficient cause from filing the appeal within time.

10. Considering the factual aspect of the matter, and in the interest of justice, we consider it fit and proper to remand the matter back to the files of the ld. first appellate authority to admit the appeal and to consider and decide all the grounds of appeal contained in the memorandum of appeal on merits of the case.

11. The assessee will be allowed reasonable opportunity of being heard.

12. We have not expressed any opinion on merits.

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

*Order pronounced in open court as on 27.05.2025.*

**Sd/-  
(Brajesh Kumar Singh)  
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