

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

**BEFORE : SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No. 35/Agr/2025
Assessment Year: 2016-17

Cherry Jain Family Trust, Ward No. 18, Subhash Ganj, Ashoknagar- 473331 (MP).	Vs.	Income-tax Officer(Exemption), Ashoknagar (Gwalior).
PAN : AABTC8789K		
(Appellant)		(Respondent)

Assessee by	Sh. Subhash Jain, C.A.
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	19.05.2025
Date of pronouncement	29.05.2025

ORDER

Per Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by assessee against the impugned order dated 24.12.2024 (wrongly mentioned as 11.01.2025 in Form-36) passed in Appeal No. ADDL/JCIT(A)-1 DELHI/10002/2015-16 by the Ld. ADDL/JCIT(A)-1, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), wherein the learned first appellate authority dismissed assessee's appeal as barred by limitation.

2. At the very outset, it is submitted by learned AR of the assessee that the first appeal was filed before the Id. CIT(Appeals) on 04.11.2023

against the order dated 19.10.2017 passed u/s. 143(1) of the Act by a delay of 2176 days. Learned AR submitted that the appellant trust was in dark about any demand because no intimation u/s. 143(1) was ever served upon the appellant. The appeal could accordingly be filed on 04.11.2023 after downloading the intimation dated 19.10.2017 by the new consultant on 26.10.2023. An affidavit on behalf of Shri Mahavir Chaudhary, Advocate has also been submitted in support of the delay condonation application. Prayed to condone the delay caused in filing the first appeal before the Id. CIT(Appeals) and afford an opportunity to make submissions before the Id. CIT(Appeals) for deciding the appellant's cause on merits.

3. Learned DR has supported the impugned order.

4. It is true that there is huge delay of 2176 days in filing the first appeal before Id. CIT(Appeals). We, however, 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. Therefore, substantial part of the delay in filing the first appeal before Id. CIT(Appeals) gets condoned in view of the Hon'ble Apex Court directions.

5. As far as the delay of remaining period is concerned, keeping in view the un-rebutted corroborating facts mentioned in the affidavit submitted on behalf of the assessee, we conditionally condone the delay of remaining period subject to the payment of cost of Rs.5000/- to be deposited by the appellant in Prime Minister's National Relief Fund within one month from the date of this order. The appellant shall furnish the receipt of such deposit before the Id. CIT(Appeals). Learned CIT(Appeals) is directed to decide the assessee's first appeal on merits on receipt of cost deposit proof as noted hereinabove. Needless to say that Ld. CIT(Appeals) shall ensure substantial compliance of the principles of natural justice.

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

Impugned order dt. 24.12.2024 is set aside.

Order pronounced in the open court on 29.05.2025.

**Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER**

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

Dated: 29.05.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra