

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

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

ITA Nos. 135, 136 & 137/Agr/2025
Assessment Year: 2017-18

Brijraj Kumar Pandey, Mandir Mahewa, Etawah (UP)	Vs.	Income-tax Officer, Ward 2(2)(5), Etawah.
PAN : ADMPP0939N		
(Appellant)		(Respondent)

Assessee by	Sh. Rajendra Sharma, Advocate & Sh. Manuj Sharma, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	21.05.2025
Date of pronouncement	29.05.2025

ORDER

Per:Sunil Kumar Singh, Judicial Member:

These three appeals have been preferred by assessee against the separate impugned orders all dated 12.04.2024 passed in Appeals No.NFAC/2016-17/10187318, NFAC/2016-17/10187317 and NFAC/2016-17/10121209 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year [AY] 2017-18, wherein the Id. CIT(Appeals) has dismissed assessee's first appeals for non-prosecution, confirming the

penalty of Rs. 10,000/- imposed for non-compliance of statutory notices u/s. 142(1), penalty of Rs.3,50,000/- imposed for receipt of payment in cash in contravention of section 269SS and addition of Rs. 14,10,176/- made on account of long term capital gains on sale of property, by the Assessing Officer, vide separate penalty orders dated 16.09.2022, 28.09.2022 and assessment order dated 25.03.2022 passed u/s. 272A(1)(d), sec. 271D and sec. 147 r.w.s. 144B of the Act respectively.

2. Perused the records and heard the Id. Authorized Representative for the assessee and the Id. Departmental representative for the Revenue.

3. At the very outset, it reveals from the records that the present appeals have been filed on 12.03.2025 against impugned orders dated 12.04.2024 by a delay of about 274 days. Ld. AR of the assessee has, in accordance with the condonation applications, submitted that the appeals could not be filed in time, as the email address mentioned in Form No. 35 was of the assessee's firm. However, the firm stood closed and the email ID given therein became inoperative and admittedly, information in respect to the impugned orders could not be received by the assessee. The delay is not intentional. Prayed to condone the delay.

4. The averments made in the delay condonation applications are uncontroverted. Hence, in the interest of justice, we find sufficient cause for

condoning the delay in filing these appeals. We condone the delay accordingly caused in filing all these three appeals.

5. Since all these three appeals are interlinked to each other, inasmuch as the penalty proceedings in question are based on the assessment proceedings u/s. 147 of the Act, all these appeals are being decided by this consolidated order for the sake of convenience and brevity.

6. Learned representative for the assessee has submitted that the impugned orders have been passed by the Id. CIT(Appeals), ex parte without affording reasonable opportunity of hearing to the assessee. Prayed to set aside the impugned orders.

7. Learned DR has submitted that the assessee was provided sufficient opportunity of hearing by learned CIT(Appeals) on various occasions, but for no avail. Learned DR has supported the impugned order.

8. Perusal of the impugned orders shows that during the appellate proceedings against the assessment order, the appellant/assessee was issued various notices by the first appellate authority on 16.11.2022, 06.03.2024, 12.03.2024 and 04.04.2024, but for no avail. Similar irresponsible attitude of assessee is also exhibited to various notices issued by the Id. CIT(Appeals) in appellate proceedings against penalty orders passed u/s. 272A(1)(d), wherein the notices issued on

15.11.2022, 12.03.2024 and 04.04.2024 remained un-responded on behalf of the assessee. Similarly, in the appellate proceedings against the penalty order u/s. 271D, the notices issued on 15.11.2022, 06.03.2024, 12.03.2024 and 04.04.2024 remained un-responded. Such an irresponsible conduct of the assessee cannot be appreciated. It is however noticed that learned CIT(Appeals) has passed ex-parte impugned orders without any discussion on the merits of the cases, whereas learned CIT(Appeals) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. In the circumstances 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 matters back to the files of learned CIT(Appeals) for adjudication on merits. We order accordingly. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(Appeals) for the expeditious and effective disposal. Assessee shall refrain from seeking any adjournment but for compelling and unavoidable reasons. Needless to say that learned CIT(Appeals) shall ensure the observance of the principles of natural justice. The appeals are liable to be allowed accordingly.

9. In the result, all the three appeals are allowed for statistical purposes.

The impugned orders dated 12.04.2024 are 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