

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

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 541/Asr/2024
Assessment Year: 2015-16

Lakhvir Singh 810,
VPO Mallah Tehsil Jagraon
District Ludhiana, Punjab 142035

Vs.

The Assessment Unit NFAC Delhi
JAO Income Tax Officer Ward-1,
Moga, Punjab

[PAN: CRBPS 8500H]

(Appellant)

(Respondent)

Appellant by : Sh. Sudhir Sehgal, AR
Respondent by : Sh. Rajiv Wadhwa, Sr. D. R.
Date of Hearing : 24.04.2025
Date of Pronouncement : 29.05.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 31.07.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC Assessment Unit dated 15.02.2024 passed u/s 147 r.w.s. 144/144B of the I.T. Act, 1961.

2. **Condoantion of delay:** It is pointed out by the registry that this appeal is filed belatedly filed by one day. The assessee has explained the delay to have arisen to some internet problem in the office of the Id. AR, at the time of e-filing.

3. The Id. DR has no objection. As such, considering the facts, we condone the delay of one day and admit the appeal for decision on merits.

4. The grounds of appeal taken by the assessee in Form No. 36 are as under:

- “1. That the Ld. CIT(A) has erred in dismissing the appeal of the assessee on account of delay of 114 days in filing the appeal.*
- 2. That the Ld. CIT(A) has failed to appreciate that there was a bonafide and reasonable cause in not filing the appeal in time since the counsel, who had been engaged for looking after the Income tax matters, did not inform the assessee at all regarding the fixation of appeal.*
- 3. That the Ld. CIT(A) has failed to appreciate the law on account of delay that the liberal approach needs to be adopted as per the Judgement of Gurfateh Films and Sippy Grewal Productions (P) Ltd., where there was delay of 665 days but after relying upon the judgment of Hon'ble Apex Court in the case of Eaha Bhattachajee and, the delay was condoned.*
- 4. Notwithstanding the above said ground of appeal, the Ld. CIT(A) has erred in confirming the addition of Rs. 20,54,000/- on account of cash deposits in the bank account of the assessee.*
- 5. That the Ld. Assessing Officer has erred in reopening of the assessment u/s 148 and also that there was wrong reason to believe with regard to reopening of the assessment u/s 147.*

6. *That the Ld. CIT(A) has failed to appreciate that the reopening is bad in law since the amount involved is less than Rs. 50 lacs.*
8. *That the addition of cash deposits of Rs.20,54,000/- has been made against the facts and circumstances of the case.*
9. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off.”*

5. Brief facts of the case are that on account of information in possession of the AO that the assessee has entered into financial transaction amounting to Rs.90,80,000/- during the financial year 2014-15 and no return of income has been filed in regular course, enquiry was conducted u/s 148A(e) and order dated 07.04.2022 passed u/s 148A(d) and notice u/s 148 issued on the same date. Thereafter various notices were issued u/s 142(1) calling for details and particulars on various dates of hearing and the final show cause notice was issued on 22.12.2023.

6. In response to the last SCN, the assessee submitted copies of bank statement, cash book, Form 26-AS and copies of sale receipts of wheat and paddy (Form-J) to explain the source of the deposits in bank account, totaling Rs.28,60,000/- (*not 80,80,000/-*) as stated by the AO) and the contention of the assessee was that the said deposit has come out of sale of agricultural produce. It was further submitted that

investment in fixed deposits were made out of closure proceeds of earlier fixed deposits.

7. However, the AO accepted the documentary evidences and explanations in fact, and assessment was ultimately completed on a total income of Rs.20,54,053/- considering the same as unexplained deposits u/s 69A of the Act.

8. The matter was carried in appeal before the Id. CIT(A) and the Id. CIT(A) NFAC dismissed the appeal on the ground that the appeal filed before the Id. first appellate authority was belated *by 114 days* and even though explanations for the delay was filed by the assessee, the same was not found to be satisfactory and the appeal has been dismissed in *limine* without adjudication on merits by refusing to condone the delay of 114 days (one hundred fourteen days) as a result of which the appeal was not admitted for hearing by the Id. first appellate authority.

9. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. The assessee has taken 9 (nine) grounds in appeal out of which ground nos. 4 to 9 are on merits of the case relating to the addition of Rs.20,54,000/- and also on the issue of reopening of assessment u/s 147 on the basis of wrong reasons recorded and also agitated the issue that reassessment in this case has been done after three years where the income escaped assessment is less than 50 lacs (fifty lakhs).

10. Ground nos. 1, 2 & 3 relates to the issue where the Id. first appellate authority has dismissed the appeal in *limine* refusing to condone the delay of 114 days and without adjudication of the appeal on merits and refusing to admit the appeal for hearing.

11. The Id. AR of the assessee submitted that the delay in filing the appeal before the first appellate authority has been explained and a supporting affidavit has also been filed stating the fact that the order of the Assessing Officer was passed on 15.02.2024 and the appeal before the Id. CIT(A) has supposed to be filed on 16.03.2024 but the appeal was actually filed on 08.07.2024 belated by *114 days (one hundred fourteen days)*. It is further submitted that the reasons for delay was due to the fact of non receipt of the assessment order on the registered e-mail id in the income tax portal. He submitted copies of screenshots from the income tax portal and stated that the assessment order has been submitted in the e-mail id. kushalp Chopra@gmail.com on 15th February, 2024 (*which is also the date of assessment order*). It is further submitted that this e-mail id belongs to the earlier counsel, who has not intimated the assessee regarding disposal of the assessment order. It was further pointed out by the AR with the help of screenshots that the primary e-mail id of the assessee was returnpan7@gmail.com and the secondary e-mail id was returnincome@gmail.com, but no copy of order has been issued or

served on the above two e-mail ids. As a result of which the assessee was totally unaware of the existence of the assessment order. Subsequently, on receipt of telephonic message from the Income Tax Department regarding recovery of outstanding taxes it came to the knowledge of the assessee that assessment order has been passed by the assessment unit NFAC Delhi raising a demand. Thereafter, he took necessary steps to appoint new counsel by the help of whom, the appeal has been filed before the Id. first appellate authority which was belated by 114 days for which the assessee was not at fault. In other words, he prays that since the delay in filing the appeal before the first appellate authority was not intentional or willful on the part of the assessee, the delay may please be condoned and the Id. CIT(A) may please be directed to admit the appeal for hearing on merits. In support of his contention, the assessee has placed reliance on a number of judicial decisions in the case of *“Esha Bhattacharya” in Civil Appeal No. 8183-8184 of 2013 (SC)*, the Hon’ble Tribunal Amritsar in the case of *Gurfateh Films and Sippy Grewal Productions in ITA No. 92/Asr/2022* dated 23.12.2021, the judgment of *Mukesh Mittal in ITA No. 1187 & 1212/Chd/2018*, judgment of the Hon’ble Supreme Court of India in the case of *CIT v. Shirin Kamaljit Singh reported in [2020] 115 taxmann.com 243 (SC)* and the judgment of the Hon’ble ITAT Surat Bench in the case of *Chirag P. Thummar v. Pr. CIT reported in [2024] 159 taxmann.com 1628 (Surat-Trib.)*

12. The ld. DR relied on the order of the ld. CIT(A) but has no objection if the matter is remanded back to ld. first appellate authority for disposal on merits.

13. We have considered the rival submissions and materials on record and also a short paper book filed by the assessee containing copies of bank statement, cash books, copy of notices issued u/s 142(1) and its reply filed by the assessee, copy of J-Form issued, copy of show cause notice and its reply filed by the assessee and also the contents of the affidavit explaining reasons along with the screenshots of the portal, explaining the delay in filing of the appeal before the ld. CIT(A).

14. We are of the opinion that the copy of the assessment order dated 15.02.2024 has not been issued in the e-mail id contained in portal of the assessee. As a result of which the assessee was unaware of the existence of the assessment order and the order was served through mail on the previous *counsel* of the assessee who has never informed the assessee which has resulted in this delay of 114 days.

15. Moreover, all the legal issues contained in this appeal and the factual aspect of the matter needs to be adjudicated on merits of the case which has not been done because the appeal has not been admitted for hearing on merits.

16. As such, we are of the opinion that to meet the ends of justice, the matter should be remanded back to the files of the ld. CIT(A) for admission of the appeal

and for decision of all grounds contained in Form 35 on merits of the case, and we direct accordingly.

17. We also direct the assessee to furnish all documentary evidences, bank statement, cash book and all other submissions before the Id. first appellate authority and to fully co-operate in appeal proceedings for proper disposal of the appeal on merits.

18. The assessee will get reasonable opportunity of being heard (*and notice to be issued as per section 282 of the Act (r.w.s. 127 of I.T. rules).*)

19. We have not expressed any opinion on merits and all legal contentions are left open.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 29.05.2025

Sd/-
(Manoj Kumar Aggarwal)
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