

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

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND
SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

I.T.A. No.48/Alld/2025
Assessment year:2014-15

Alok Rai, 6/8, Darbhanga Coloney, Allahabad. PAN:AFWPR7682A (Appellant)	Vs.	Income Tax Officer, NFAC, Delhi (Respondent)
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Appellant by	None
Respondent by	Shri A. K. Singh, Sr. D.R.

ORDER

PER SUBHASH MALGURIA:J.M.

This appeal vide I.T.A. No.48/Alld/2025 has been filed by the assessee for assessment year 2014-15 against impugned appellate order dated 20/01/2025 (DIN & Order No.ITBA/NFAC/S/250/2024-25/1072343859(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short].

2. In this case assessment order dated 21/09/2021 was passed u/s 147 read with section 144 read with section 144AB of the I. T. Act (DIN

ITBA/AST/S/147/2021-22/1035750590(1) whereby the assessee's total income was determined at Rs.57,10,200/-/- against the returned income of Rs.12,29,630/-. In the aforesaid assessment order addition of Rs.35,71,428/- was made towards unexplained investment u/s 69 read with section 115BBE of the Act and another addition of Rs.9,09,142/- was made towards income from other sources u/s 56(2)(vii)(b) of the Act. The assessment order was passed ex-parte qua the assessee. Being aggrieved, the assessee carried the matter in appeal before the learned CIT(A). Vide impugned appellate order dated 20/01/2025, the assessee's appeal was dismissed by the learned CIT(A). The learned CIT(A) did not decide the assessee's appeal on merits. The assessee's appeal was dismissed by learned CIT(A) on grounds of limitation. Aggrieved, the assessee has filed the present appeal in Income Tax Appellate Tribunal.

3. During the course of hearing, the assessee was represented by none. In the absence of any representation from assessee's side, we heard learned Sr. D.R. and perused the materials on record. On perusal of records and the statements of facts filed by the assessee, we find that the assessee has submitted that the assessee was suffering from Neuropathic disorder and due to such situation there was delay in filing of the appeal before the learned CIT(A). Further the entire country was under lockdown due to COVID pandemic and due to such unavoidable circumstances, there was delay in filing of appeal. It is also submitted that the appeal of the assessee has been dismissed without providing reasonable opportunity of being heard. It is also pleaded that the assessee had sufficient cause for not filing appeal in the office of learned CIT(A) within time frame mentioned in section 249(2) of the Act. It is also submitted that there was no mala-fide intention behind filing the appeal belatedly. It is also contended that in view

of these submissions, the delay in filing of appeal in the office of the learned CIT(A) deserved to be condoned. It is also submitted vide statement of facts that the Assessing Officer had passed ex-parte assessment order without providing reasonable opportunity to the assessee. Therefore, it is contended that the issue in dispute regarding additions made in the assessment order be set aside to the file of the Assessing Officer with the direction to pass de novo order. In view of the foregoing, we are satisfied within the meaning of section 249(3), that the assessee had sufficient cause for not presenting the appeal in the office of the learned CIT(A) within prescribed time limit. Accordingly, it is held that this was a fit case for the learned CIT(A) to condone the delay in filing of the appeal in his office and to admit the appeal for decision on merits. Further, on perusal of the assessment order and the impugned appellate order of learned CIT(A), we are of the view, in the specific facts and circumstances of the present case before us, that if the assessee has any grievance regarding reasonable opportunity not being provided to the assessee during assessment proceedings; the learned CIT(A) had no occasion to examine this matter as learned CIT(A) had dismissed the assessee's appeal in limine, on the ground that the appeal filed in the office of learned CIT(A) was barred by limitation. Therefore, in the specific facts and circumstances of the present case, this matter should be first considered by learned CIT(A), as CIT(A) is the first appellate forum.

4. In view of the foregoing, we set aside the impugned appellate order. The learned CIT(A) is directed to condone the delay in filing of appeal in the office of learned CIT(A); and to admit the appeal. The learned CIT(A) is further directed to pass de novo order, which should be a speaking order on

merits, on various grounds of appeal in the assessee's appeal filed in the office of the learned CIT(A).

5. In the result, the appeal of the assessee stands allowed for statistical purposes.

(Order pronounced in the open court on 05/06/2025)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Dated:05/06/2025
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T., Lucknow