



**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH "DB", JABALPUR**

**BEFORE SHRI KUL BHARAT, VICE PRESIDENT AND  
SHRI, NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No. 80/JAB/2024  
Assessment Year: 2016-17

<b>Sachin Kumar Jain</b> Varni Colony, Katra Ward, Sagar, Madhya Pradesh- 470002.	v.	<b>ITO Ward-3</b> Income Tax Office, Civil Lines, Sagar, Madhya Pradesh-470001.
<b>PAN:AEVPJ5343Q</b>		
(Appellant)		(Respondent)

Appellant by:	Shri Rahul Bardia, FCA		
Respondent by:	Shri Alok Bhura, Sr. CIT(DR)		
Date of hearing:	20	05	2025
Date of pronouncement:	11	06	2025

**ORDER**

**PER KUL BHARAT, VICE PRESIDENT.:**

This appeal, by the assessee, is directed against the order of the Learned Addl/Joint Commissioner of Income-tax (Appeals)-1, Chandigarh dated 01.03.2024 pertaining to the assessment year 2016-17. The assessee has raised the following grounds of appeal: -

*"1. That the Ld. Addl/JCIT(A) order is bad in law, facts void ab initio and without jurisdiction.*

*2. That the Ld. Addl./JCIT(A) erred in sustaining the assessment order when the notice u/s 143(2) was issued by non-jurisdictional Assessing Officer.*

*3. That the Ld. Addl/JCIT(A) erred in sustaining the rejection of books of accounts and estimating the profit at Rs.30,03,770/- [8% of Rs.3,77,25,827/- (transportation)].*

*4. The appellant reserves the right to add or amend any ground of appeal."*

2. It is reported by the Registry that the appeal is barred by limitation for 15 days. The assessee has filed an application seeking condonation of delay. The reason for delay is stated that the assessee was suffering from fever and stomach ailment. Therefore, the appeal could not be filed within the limitation prescribed by law. In support of the contention an affidavit has also been filed dated 08.05.2025, affirming the statement made in the application. The Ld. Counsel for the assessee reiterated the contents of the affidavit and the application. The Ld. DR opposed the submissions of the Ld. Counsel for the assessee and contended that there is no reasonable cause for filing the present appeal belatedly. Hence, the appeal deserves to be dismissed on this ground alone.

3. We have heard the rival submissions and perused the material on record. The assessee has given an affidavit stating therein that the appeal could not be filed as the assessee was suffering from fever and stomach ailment. No adverse material is brought on record by AO. We, therefore, respectfully following the judgment of Hon'ble Apex Court in the case of Esha Bhattacharjee vs Managing Committee of Raghunathpur Nafar Academy and others (2013) 12 SCC 649 and considering the reasons stated in the application hereby condone the delay and admit the appeal for decision on merit.

4. Apropos to the grounds of appeal on merits of the case, the Ld. Counsel for the assessee contended that the finding of the lower authorities is purely based on surmises without being supported by any material evidences. The Assessing Officer

without verifying the genuineness of evidences proceeded to make impugned addition and the Ld. CIT(A) also dismissed the appeal of the assessee without adverting to the grounds on merits.

5. On the other hand, the Ld. Departmental Representative (DR) opposed the submissions and contended that the Assessing Officer has categorically pointed out about the details of discrepancies in the documents furnished by the assessee. Thus, authorities below are justified for making impugned addition(s). Therefore, he prayed that the appeal be dismissed.

6. We have heard the Ld. Representatives of the parties and perused the material available on record. It is transpired from the record that there was no representation on behalf of the assessee before the Ld. CIT(A). Thus, he dismissed the appeal ex-parte to the assessee by observing as under: -

*“7.2 During the course of appeal proceedings, no reply has been filed by the appellant in spite of sufficient opportunities provided as detailed above.*

*7.3 Held: During the course of appeal proceedings, no reply has been filed by the appellant. I have perused the order of the Assessing Officer and considered the facts of the case. The Assessing Officer has passed a speaking order with detailed discussion on the issue involved therein. The appellant has not pursued the appeal. No details, documents or submissions have been provided by the appellant substantiating its grounds of appeal. Moreover, mere facts mentioned in Form no. 35 cannot be considered in the absence of any supporting documentary evidence and submissions.*

*The AO has passed a reasoned and speaking order considering all the facts and the circumstances of the case. Also, the appellant has failed to bring anything on record to support its grounds of appeal and to counter the additions made by the AO. Therefore, there is no reason to interfere with the order passed by the AO. Accordingly, the ground of appeal is dismissed.”*

7. Before us, certain evidence has been filed stating that same was also part of record of AO. The evidence filed by the assessee in the form of paper book and certified to be part of record of AO are material evidence for adjudication of dispute. However, the veracity of the evidences requires verification at the end of authorities below. Therefore, looking to the totality of the facts, we deem expedient to sub-serve the interest of principles of natural justice to set aside the impugned order and restore the grounds to the file of the Ld. CIT(A) to decide it afresh by way of speaking order, after giving adequate opportunity of hearing to the assessee. Hence, the impugned order is hereby set aside and grounds of appeal are restored to the Ld. CIT(A) for decision afresh.

8. It would be opened to Ld. CIT(A) to make or cause further enquiry to verify the genuineness of the evidences filed by the assessee. Grounds of appeal of the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 11/06/2025.

Sd/-  
[NIKHIL CHOUDHARY]  
ACCOUNTANT MEMBER

Sd/-  
[KUL BHARAT]  
VICE PRESIDENT

DATED: 11/06/2025

Vijay Pal Singh, (Sr. PS)

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

By order

// True Copy//

Assistant Registrar  
ITAT, Jabalpur