



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

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

ITA No. 75/JAB/2024
Assessment Year: 2013-14

Dilip Kumar Ramesh Chandra Ward No.11, Besides Bharti Vidhya Mandir, Narsinghpur Road, Chhindwara (MP)- 483001.	v.	ITO-1 Income Tax Office, Vivekanand Colony, Chhindwara, Madhya Pradesh-483001.
PAN:AAIHD0311F		
(Appellant)		(Respondent)

Appellant by:	Shri Rahul Bardia, Adv.		
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 Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 28.02.2023 pertaining to the assessment year 2013-14. The assessee has raised the following grounds of appeal: -

"1. The order passed by the Ld. CIT(A) is bad in law and facts, void ab initio and without jurisdiction.

2. The Ld. CIT(A) erred in law and facts of the case in sustaining the addition of Rs.16,87000/- u/s 68 against cash credited in the capital a/c.

3. 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 374 days. The assessee has filed an application seeking condonation of delay. The reason for delay is stated that

Ld. Counsel for the assessee met with accident and got fracture in his legs due to which he could not attend office. 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 22.04.2024, affirming the contention 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. It is noticed that the assessee has given an affidavit stating that the appeal could not be filed as the Ld. Counsel for the assessee was not attending office due to fracture in his leg. The assessee had instructed him to file appeal but due to his inability appeal could not be filed. Hence, it is stated that due to medical exigencies the appeal could not be filed in time. No adverse material is brought on record to rebut this contention on behalf of AO. We, therefore, 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 have condoned the delay. The appeal is admitted for adjudication on merit.

4. Apropos to the grounds of appeal, the Ld. Counsel for the assessee contended that the finding of the lower authorities is purely based on surmises and 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 advertng 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 discrepancies in the documents furnished by the assessee.

6. We have heard the Ld. Representatives of the parties and perused the material available on record. The assessee had also filed an application for rectification of the assessment order dated 18.03.2016, the same was rejected by the assessing authority and the impugned addition was sustained. Before the Ld. CIT(A), there was no representation on behalf of the assessee despite various opportunities. Therefore, for want of prosecution Ld. CIT(A) dismissed the appeal. The assessee has filed certain evidences that are material for adjudicating the dispute. The evidences so filed needs to be verified at the end of Ld. CIT(A). 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 Ld. CIT(A) for decision afresh.

7. However, it is clarified that Ld. CIT(A) would be at liberty to verify the genuineness of the claim of the assessee by making

independent enquiry and take appropriate action as provided under law, if he finds that the assessee is guilty of fabricating any documents as observed by assessing authority. Grounds of appeal of the assessee are allowed for statistical purposes.

8. 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