

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

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

ITA No. 149/Agr/2025
Assessment Year: 2011-12

Mustkeen Ahamad, 31/47, Gulab Khana, Chatta Bazar, Agra-282003 (UP).	Vs.	Income-tax Officer, Ward 2(1)(2), Agra.
PAN : AQTPA4603Q		
(Appellant)		(Respondent)

Assessee by	Sh. Deepak Maheshwari, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	22.05.2025
Date of pronouncement	16.06.2025

ORDER

Per : Sunil Kumar Singh, Judicial Member:

This appeal has been preferred by the assessee against the impugned order dated 24.01.2024 passed in Appeal No. CIT(Appeal) 2, Agra/10058/2019-20 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 2011-12, wherein the Id. CIT(Appeals) has dismissed assessee's appeal ex parte upon rejection of assessee's prayer for the condonation of delay.

2. At the very outset, learned representative for the assessee has submitted that this appeal was filed on 19.03.2025 against the impugned

order dated 24.01.2024 passed by the first appellate authority by a delay of about 360 days, further submitting that the delay is due to assessee's lack of awareness of e-proceedings as the assessee never received physical copy of notices issued. Assessee could be aware of the impugned order only when Income-tax Inspector raised the demand. The assessee has filed an affidavit in support of the said facts. Prayed to condone the delay caused in filing this appeal. In view of the facts stated in assessee's affidavit, we find sufficient cause to condone the delay. Said delay caused in filing this appeal is accordingly condoned.

3. Learned counsel for the assessee further submitted that the first appeal was filed on 10.05.2019 against the assessment order dated 13.12.2018, service of which was effected upon the assessee on 07.03.2019. However, due to Advocate's negligence, not timely informing the assessee, caused the delay of 84 days in filing first appeal. Prayed to condone the delay in filing first appeal before the Id. CIT(Appeals) and direct the first appellate authority to decide the matter on merits after affording an opportunity of hearing to the assessee.

4. Learned DR has submitted that the Id. CIT(Appeals) has rightly rejected assessee's prayer for condonation of delay, as there was no sufficient cause to this effect and supported the impugned order.

5. We find that the assessee raised following ground before the first appellate authority for condoning the delay caused in filing the first appeal :

“Sir, the assessee’s advocate received the order and notice of demand from the department on dt. 07.03.2019 but the advocate has been kept the above papers in others files and forget to file the appeal. Now the advocate find the papers related to appeal he feel his mistake and submitting the appeal. Sir the above delay is on the part of advocate. So sir kindly accept the condonation of delay.”

6. It appears from the perusal of the impugned order that the delay of 84 days is mentioned in filing the first appeal. Ld. CIT(Appeals) has mentioned that the first appeal was filed on 10.05.2019 against the assessment order dated 13.12.2018 passed u/s. 144/147 of the Act. However, service of the assessment order is mentioned as 07.03.2019. Hence, the appeal was filed after 64 days from the date of service, i.e., 07.03.2019. Section 249 sub-sec. (2) of the Act provides period of limitation as 30 days. Hence, the remaining meager duration should have been considered by the Id. CIT(Appeals) in a more positive manner. It appears to us that there was sufficient cause to condone the delay. We accordingly condone the delay caused in filing first appeal before the Id. CIT(Appeals) and restore the matter back to the file of learned CIT(Appeals) for adjudication of the matter afresh on merits. 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 appeal is liable to be allowed accordingly.

7. In the result, the appeal is allowed for statistical purposes. Impugned order dated 24.01.2024 is set aside.

Order pronounced in the open court on 16.06.2025.

**Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 16.06.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra