

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

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

ITA No. 168/Agr/2025  
Assessment Year: 2014-15

Mohd. Yunus Warsi, C-97, New Sabji Mandi, Sikandra, Agra-282007 (UP).	<b>Vs.</b>	Income-tax Officer, Ward 1(1)(1), Agra
<b>PAN : ABDPW3123G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. P.K. Sehgal, 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 assessee against the impugned order dated 28.02.2023 passed in Appeal No. NFAC/2013-14/10196585 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 2014-15, wherein the Id. CIT(Appeals) dismissed the first appeal upon rejection of assessee's prayer for condonation of delay.

2. At the very outset, Id. Representative for the assessee has submitted that this appeal was filed on 28.03.2025 against the impugned order dated 28.02.2023 by a delay of about 699 days. Learned AR has

drawn attention of the Tribunal to the assessee's delay condonation application, wherein it is stated that the impugned order was communicated to the appellant on 29.04.2023, further submitting that the appellant/assessee is an illiterate person and was suffering from post Covid complications resulting into damage of lungs, brain and some vital parts of the body. The assessee was also not conversant with the accounting and income tax matters. Prayed to condone the delay. We notice that the assessee has filed an affidavit in support of these facts and delay condonation application which are un-controverted. Hence, there exists sufficient cause for condonation of delay. We accordingly condone the delay caused in filing this appeal.

3. Learned AR has further submitted that the first appeal was filed on 16.09.2022 against the assessment order dated 23.02.2022 by a delay of 175 days, further submitting that the Id. CIT(Appeals) has wrongly ignored the medical related issues of the assessee and erred in dismissing the appeal merely on the ground of delay. Prayed to set aside the impugned order and afford an opportunity to the assessee to make submissions before Id. CIT(Appeals) for passing fresh order on merits.

4. Learned DR has supported the impugned order passed by Id. CIT(Appeals).

5. We notice that the appellant/assessee filed a delay condonation application before the first appellate authority. According to the impugned order, the contents of the delay condonation application read as under :

“1. That assessee was assessed u/s 147 r.w.s. 144 with section 144B of Income tax and whole amount of Rs.5453100/-being sales proceed deposited in Bank.

2. The assessment was made on 23.02.2022 and due date of filing of appeal was 22.03.2022.

3. That assessee suffered in Critical diseases from 20.03.2022 to 11.09.2000 (probably a typographical error. The assessee might be intending to write 2022).

4. That hence could not file appeal in due time.”

6. It further transpires that the medical evidences were also produced before the first appellate authority. However, Id. CIT(Appeals) was not satisfied to condone the delay in filing the first appeal. The limitation period for filing an appeal before learned CIT(A) u/s. 249(2) of the Act is 30 days. However section 249(3) of the Act empowers the first appellate authority to condone the delay if satisfied that appellant had sufficient cause for not presenting it within that period. In the instant case, learned CIT(A) was not satisfied to condone the said delay in filing the first appeal on 16.09.2022 against the assessment order dated 23.02.2022. The first appeal for being within the period of limitation ought to have been filed on or before 22.03.2022, but the same has been filed on 16.09.2022 by a delay of 175 days.

6. Hon'ble Supreme Court in Sambhaji and Ors V Gangabai and Ors, Civil Appeal no. 6731/2008 (arising out of SLP(C) No. 14562 of 2006) vide judgment dated 20.11.2008, has held that the object of prescribing procedure is to advance the cause of justice. In an adversial justice system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extra ordinary situations in the ends of justice. Justice is the goal of jurisprudence. Procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. Processual law is not to be tyrant but a servant, not an obstruction but an aid to justice. A procedural prescription is the handmaid and not the mistress, lubricant, not a resistance in the administration of justice. In view of this and in the interest of justice, we find sufficient cause to condone the delay caused in filing the first appeal before the Id. CIT(Appeals).

7. In the result, the appeal is allowed for statistical purposes. The impugned order dated 28.02.2023 is set aside. The delay in filing the first appeal before first appellate authority i.e learned CIT(A) stands condoned as stated above. We restore the matter back to the file of

learned CIT(A) for passing order afresh on merit in accordance with law. Needless to say that the first appellate authority shall ensure the substantial compliance of the principles of natural justice.

***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