

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

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

ITA No. 145/Agr/2025
Assessment Year: 2012-13

Sumit Jain, 158/1, Baluganj, Gwalior Road, Agra-282001.	Vs.	Income-tax Officer, Ward 2(1)(1), Agra.
PAN : ADZPJ8701H		
(Appellant)		(Respondent)

Assessee by	Sh. Gaurav Goyal, CA
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 10.10.2024 passed in Appeal No. NFAC/2011-12/10054220 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 2012-13 wherein the Id. CIT(Appeals) has dismissed assessee's appeal, confirming the addition of Rs.15,26,000/- made by the Assessing Officer, vide assessment order dated 28.12.2019 passed u/s. 147 r.w.s. 143(3) of the Act, as short term capital gain not shown by the

assessee on sale of a plot of land for a consideration of Rs.14,00,000/- against its valuation u/s. 50C of Rs.29,26,000/-.

2. At the very outset, learned representative for the assessee has drawn the attention of the Bench towards assessee's delay condonation application and submitted that this appeal has been filed on 17.03.2025 against the impugned order dated 10.10.2024 by a delay of about 97 days. The said delay is due to inadvertent lapse on the part of assessee's authorized representative. In the interest of justice, the delay caused in filing this appeal is condoned.

3. Learned representative for the assessee has further submitted that the impugned order has been passed ex parte in violation of principles of natural justice. Prayed that the impugned order be set aside and the first appellate authority be directed to decide the matter afresh on merits after affording opportunity of hearing to the assessee.

4. Learned DR has supported the impugned order.

5. Perusal of the impugned order shows that notices were issued by the Id. CIT(Appeals) to the assessee on 12.07.2024, 30.07.2024, 20.08.2024 and 12.09.2024, but the assessee either failed to respond or sought adjournment. Such irresponsive conduct of the assessee cannot be appreciated. However, it is seen that the first appellate authority has not passed the ex parte impugned order on merits, whereas Id.

CIT(Appeals) was expected to state the points for determination, decision thereon and the reasons for the decision as provided u/s. 250(6) of the Act. In the circumstances and in the interest of justice and fair play, we deem it just and appropriate to afford last opportunity to the assessee and remit the matter back to the file of learned CIT(Appeals) for adjudication on merits. We order accordingly. 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.

6. In the result, the appeal is allowed for statistical purposes. The impugned order dt. 10.10.2024 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