

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

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

ITA No. 172/Agr/2025
Assessment Year: 2017-18

Tarun Kumar, Village-Khipoona, Ater Road, Bhind (MP).	Vs.	Income-tax Officer, Ward 2(1), Gwalior.
PAN : CNDPK0248J		
(Appellant)		(Respondent)

Assessee by	None/(Adjournment application rejected)
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 28.01.2025 passed in Appeal No. CIT (A), Gwalior/11018/2019-20 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250(6) of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year (AY) 2017-18, wherein the learned first appellate authority has dismissed assessee's first appeal as time barred.

2. None appeared to represent the appellant/assessee. However, an adjournment application was moved on record, which was rejected.

Perused the records and heard the Id. Departmental representative for the revenue, who supported the impugned order.

3. This appeal has been filed on the ground that the Id. CIT(Appeals) was not justified in dismissing assessee's appeal as barred by limitation.

4. It appears from the perusal of the impugned order that the first appeal was instituted on 07.03.2020 against the assessment order dated 17.12.2019. Perusal of form No. 35 reveals that the assessment order dated 17.12.2019 is shown to have been served upon the assessee on 04.02.2020. It is no doubt true that the Id. CIT(Appeals) had issued letters dated 14.08.2023, 19.07.2024 and 02.01.2025 to the assessee to file the delay condonation petition, however, the Id. CIT(Appeals) has nowhere objected to the date of service of assessment order shown by the assessee in Form-35. Therefore, if the period of limitation is reckoned from 04.02.2020, i.e., the date of communication, the first appeal filed on 07.03.2020 would be deemed to be delayed by one or two days only, which is liable to be condoned in the larger interest of justice. We, therefore, condone the delay caused in filing the first appeal. We accordingly, remit the matter back to the file of learned CIT(Appeals) for adjudication 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.

5. In the result, the appeal is allowed for statistical purposes. The impugned order dt. 28.01.2025 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