

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT
MEMBER
AND
SHRI PARESH M JOSHI, JUDICIAL MEMBER

ITA. NO.60/Ind/2025
Assessment Year 2012-13

Rishabh Kumar Jain, HIG-49, Shivaji Nagar, Bhopal (PAN: AATPJ5925A)	बनाम/ Vs.	ITO 1(2), Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
Assessee by	Shri Sanjay Mishra, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	17.06.2025	
Date of Pronouncement	19.06.2025	

आदेश / O R D E R

Per Paresh M Joshi, J.M.:

This is an appeal filed by the assessee u/s 253 of the Income Tax Act 1961 (hereinafter referred to as the "**Act**" for sake of **brevity**) before this Tribunal. The assessee is aggrieved by the order bearing Number: ITBA/NFAC/S/250/2023-24/1061557955(1) dated 27.02.2024 passed by the Ld. CIT(A) u/s

250 of the Act which is hereinafter referred to as the **"impugned order"**. The relevant assessment year is 2012-13 and the corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

FACTUAL MATRIX

2.1 At the outset and at threshold we notice that the Tribunal registry has pointed out delay of 259 days in preferring the instant appeal. We observe and notice that the **"impugned order"** is dated 27.02.2024. The date of service of order in Form 36 is shown as 27.02.2024. The appeal is e-filed on 14.01.2025. Hence appeal is fixed beyond statutory time limit of 60 days. The assessee has filed condonation of delay application along with an affidavit in support. The Ld. AR has pointed out to us during the hearing that the assessee is a very senior citizen aged 78. It is also pointed out that he had engaged the service of one N.S. Thakur, Advocate aged 70 to handle his income tax affairs. Shri N.S. Thakur, Advocate who besides him is also a senior citizen and is not well versed with computer working. He was not keeping good health too. Shri N.S. Thakur, Advocate had not informed him that an appellate order is passed. That he changed

his advocate and then learnt that an appellate order is passed against him. In the process there was delay as aforesaid. Per contra Ld. DR for Revenue has no objection if this Tribunal in its wisdom deems fit to condone the delay. The Ld. AR has prayed for condonation of delay in rejoinder too. Accordingly after perusing the condonation of delay along with affidavit in support we condone the delay. The appeal is admitted and taken up for hearing.

2.2 That as and by way of an assessment order made u/s 147 r.w.s. 143(3) of the Act the assessee's total income exigible to tax was computed and assessed at **Rs.61,87,661/-** . **Additions** were made to his returned income of Rs.9,96,870/-. That aforesaid assessment order is dated 04.12.2019 which is hereinafter referred to as the "**impugned assessment order**".

2.2 That the assessee assessee being aggrieved by the aforesaid "**impugned assessment order**" prefers first appeal **u/s 246A of the Act** before Ld. CIT(A) who by the "**impugned order**" has dismissed the 1st appeal of the assessee by way of "**impugned order**" on reasons specified therein.

2.6 That the assessee being aggrieved by the “impugned order” has preferred the instant second appeal before this Tribunal and has raised following grounds of appeal in Form No.36 against the “impugned order” which are as under:-

“1. That, on the facts and circumstances of the case and in law, the Id. AO and Id. CIT(A) ought to have appreciated that the appellant had sufficient cash available for depositing cash in Bank accounts and particularly in view that cash was also available out of the sale of plots on which STCG was paid and assessed by Id. AO.

2. That, on the facts and circumstances of the case and in law, the Id. CIT(A) was not justified in confirming the reassessment order passed by AO, which was without jurisdiction and bad-in-law.

3. That, on the facts and circumstances of the case and in law, the Id. CIT(A) was not justified in confirming the 3 reassessment order passed by AO u/s. 148 because proper opportunity was not given to the appellant before framing appellate order.

4. That, on the facts and circumstances of the case and in law, the Id. AO was not justified in making and Id. CIT(A) was not justified in maintaining addition of Rs. 33,03,309/- on account of cash deposited in bank accounts.

5. That, on the facts and circumstances of the case and in law, Id. CIT(A) was not justified in not adjudicating ground taken by the appellant that the STCG shown at Rs. 6,97,000/-ought to have been accepted by the Id. AO.

6. That, the appellant craves your leave to add or amend any grounds of appeal on or before the date of hearing”.

3. **Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 17.06.2025 when the Ld. AR for and on behalf of the assessee

appeared before us and interalia contended that the “**impugned order**” is illegal, not proper and bad in law. It is in violation of the principles of natural justice. The Ld. AR pleaded before us that since assessee is a senior citizen and is not keeping good health he remained non responsive to the notice(s) issued by Ld. CIT(A). Our attention was also brought to Form No.35 where e-mail id was shown as *narendrethakur85902@gmailcom* in column No.17 where all notice(s) from Office of CIT(A) must have gone. It was contended that a last opportunity be granted to the assessee to appear before CIT(A) so that all contentions could be put through across him. Per contra Ld. DR has no objection if matter is relegated back to the file of CIT(A) if this Tribunal deems it fit and appropriate.

4. **Observations, findings & conclusions.**

4.1 We now have to decide the legality, validity and the propriety of the “**impugned order**” basis records of the case and rival contentions canvassed before us.

4.2 We have carefully perused the records of the case.

4.3 We basis records of the case so also after hearing and upon examining the contentions are of the considered opinion that the

“**impugned order**” should be set aside and one last opportunity should be afforded to the assessee to present his case in fruitful manner before Ld. CIT(A). Hence we set aside the “**impugned order**” and remand the case to CIT(A) on *denovo basis*.

5. **Order**

5.1 In the premises “**impugned order**” is set aside as and by way of remand to CIT(A) on *denovo basis*.

5.2 In result, Appeal of the assessee is allowed for statistical purpose.

Order pronounced in open court on 19.06.2025.

Sd/-

Sd/-

(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

(PARESH M JOSHI)
JUDICIAL MEMBER

Indore

दिनांक/ Dated : 19/06/2025

Dev/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore