

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA Nos.266 & 267/RPR/2025
निर्धारण वर्ष / Assessment Years : 2013-14 & 2017-18**

Dharampal Malik
Rakhi Joba, Tehsil Saja,
Post- Deokar, Bemetara (C.G.)-491 331
PAN: BEFPM9373E

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1(3),
Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 05.06.2025
घोषणा की तारीख / Date of Pronouncement : 20.06.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, Delhi dated 26.10.2023 for the assessment years 2013-14 and 2017-18 as per the grounds of appeal on record.

2. At the very outset, it is noted that there is delay of 485 days in each of the appeals. In this regard, the Ld. Counsel for the assessee submitted condonation petition and reasons explaining the said delay. For the sake of completeness, the relevant contents of the condonation petition are extracted as follows:

“2. Reason for delay in filing appeal

a) The appellant is an agriculturist and has completed his education only upto 10th standard from Hindi/Haryanvi medium, has limited understanding of technology and the complex provisions of Income Tax Law. All the compliance related to the assessment proceedings and the appellate proceedings were looked after by his previous counsels. Due to lack of familiarity with tax laws and procedures, the appellant is totally depended upon his counsel. All the mails related to assessment proceedings were received in the mail id "carakesh.vader@gmail.com" which belongs to his previous counsel. While filing Form no. 35, the counsel created a new mail id "befpm9373e@gmail.com" for the specific use of the appellate proceeding. However, this e-mail was handled by his counsel only, since the appellant is not computer and technology literate.

b) On 21.05.2024, due to honey bee stings, the appellant faced significant health complications. He experienced blurring of vision, drowsiness, weakness in the right upper

and lower limbs, and altered sensorium. As a result of this serious allergic reaction, the appellant was hospitalized for 14 days, suffered from short term memory loss. Post-recovery, the assessee has continued to experience symptoms such as weakness, dizziness, and reduced concentration, which further hindered his ability to file the appeal within the prescribed time limit. The discharge summary issued by hospital alongwith medical reports is enclosed for your reference (page no. 1 to 21).


Apart from this, appellant is heart patient and is also suffering from Hypertension from past 10 years, is verifiable from the discharge summary issued by the hospital. The discharge summary dt.03.06.2024 & dt.05.09.2024 alongwith medical reports/prescriptions is attached for your reference (page no. 1 to 32). These ongoing medical conditions played a major role in deteriorating appellant's health and mental state over the time, making it difficult for him to look into legal & procedural matters in a timely manner.

The fact of passing of appellate order came to the knowledge of appellant only in the month of March, 2025 when the counsel of appellant received a penalty order and it came to surface that appellate order was passed on 26.10.2023. To file appeal before Hon'ble ITAT, the appellant wanted to appoint new counsel. Looking and appointing new counsel also took some time. Due to all the above reasons, the appeal could not be filed within time.

It may kindly be appreciated that the delay is thus attributable to ignorance of knowledge of receipt of appellate order and the appellant was not at all aware about the receipt of the saw Therefore, there is a reasonable cause for delay in filing appeal. The delay is not intentional.”


For corroborating the aforesaid, the assessee had also filed “discharge summary” of the hospital which is made part of this order as follows:

Page 1



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DISCHARGE SUMMARY

PATIENT NAME :	Mr. DHARAMPALL MALIK	DATE OF ADM. :	21-05-2024 11:42AM
F/H NAME :	S/O DULICHAND MALIK	DATE OF DIS. :	03-06-2024 11:58AM
AGE / SEX :	49 Y / M	UHID NO :	5047876
CATEGORY :	CASH CATEGORY	IPD NO :	IP24007415
CONSULTANT :	Dr.Dr.SUMAN RAO,MBBS,MD,(MED)KIDNEY DISEASE & DIALYSIS CONSULTANT, Dr.NACHIKET S DIXIT,MBBS,MD(Medicine),DM(NEURO PHYSICIAN)MBBS,MD,(MED)KIDNEY DISEASE & DIALYSIS CONSULTANT	WARD	PRIVATE WARD
REFERRED BY :	SELF	BED NO.	1

FINAL DIAGNOSIS :-

- Acute ischemic stroke (Vertebrobasilar)
- CAD (Post PTCA)
- HT
- Honey bee sting

CHIEF COMPLAINTS :-

- A 49 year old male came with the complain of:
- Honey bee stings associated with sudden onset blurring of vision, dull, drowsy, weakness in right upper and lower limb, associated with altered sensorium since today morning 10am (1 hour duration).
- H/O - HT, CAD - Post PTCA since 10 years. (Prior medicine: Tab. Cerubin A OD, Tab. Metolar XR 25mg - OD, Tab. Telma CT 40/6.25mg - OD, Tab. Lipvas 20mg - HS).
- H/O - Off medicine since 1-2 months.
- H/O - Following admission, had 1 episode of GTCS.

GENERAL EXAMINATION :-

BP - 220/130mmHg
PULSE - 112/min
TEMPERATURE - Afebrile
RBS - 205mg/dl

NEUROLOGICAL EXAMINATION :-

- Dull, drowsy
- Follow commands partially
- Right ataxic hemiparesis - 4/5
- Spontaneous moving left upper and lower limb

Junwani Road, Smriti Nagar, Bhilai (C.G.)
P : 0788-4056666, W : www.hitek-hospitals.com, E : info@hitek-hospitals.com
Keep your prescriptions and reports safely and bring them on next visit to our hospital.
6666, 7359192333

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डिजिटल कैंपेन | भारतीय अर्थव्यवस्था रिपेयर | 24 घंटे आपातकाल | सर्वसुविधासुक्त आई.सी.यू.

3. As regards the delay, this Bench has taken guidance from the decision of the **Hon'ble Supreme Court** in the cases of viz. (i) **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025** and (ii) **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025** wherein it has been held that a justice oriented and liberal approach ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. In the present case, it has been well established that the said delay of 485 days in both these appeals was unintentional and due to circumstances beyond the control of the assessee. Since the genuineness of the reasons has been established, considering the judgments of the Hon'ble Apex Court, the said delay of 485 days involved in both these appeals are hereby condoned and the matters are heard on merits.

4. That so far as merits of the case are concerned, both the parties conceded that the facts and circumstances and issue involved in these appeals are absolutely identical and similar, therefore, having heard the submissions of the parties, both these matters are taken up together and disposed of vide this consolidated order. In this regard, I shall first take up

the appeal in ITA No.266/RPR/2025 for A.Y.2013-14 as lead case for adjudication.

5. The relevant facts emanating from the records are that as per NMS data for F.Y 2012-13 relevant to A.Y.2013-14, it was found that the assessee had deposited cash amounting to Rs.13,84,900/- in the savings bank account. The assessee had not filed return of income for A.Y.2013-14 and therefore, the source of cash deposits remained unexplained and accordingly, reassessment proceedings were invoked u/s. 147/148 of the Income Tax Act, 1961 (for short 'the Act') after recording reasons and getting approval from the Pr. CIT-2, Raipur. In response to the notice issued u/s.148 of the Act, the assessee filed his return of income dated 27.11.2019, declaring total income at Rs.Nil. Further, statutory notices u/s.143(2) and 142(1) of the Act a/w. detailed questionnaire had been issued to the assessee and was served but there was no compliance from the assessee. The assessee was also provided another opportunity to make compliance and in that notice, it was informed the assessee that in case of non-compliance, this case will be completed on the basis of material available on record. But there was still no compliance from the assessee which resulted in framing the assessment ex-parte. That there has been no explanation by the assessee before the A.O regarding source

of cash deposits of Rs.13,84,900/- and it was added to the total income of the assessee as unexplained money u/s. 69A of the Act.

6. That further being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(Appeals)/NFAC and the said statutory authority after considering the assessment order, material on record observed and held as follows:

“6.1 These grounds of appeal are in regard to the considering entire cash deposit of the Appellant as Income and accordingly making an addition of Rs.13,84,900/- by the AO being unexplained cash deposit following the provision of section 69A of the IT Act. In this regard the appellant has submitted that he is a farmer and involved in the agricultural activities. So far the appellant has only submitted the RinPustika (land holding document) and the bank account statement, however the proof in regard to the agricultural activities being carried out during the year is not submitted. In the written submission the appellant has also contested that the AO has not proved that the assessee is not an agriculturist. The onus lies on the appellant to prove the genuineness of the transaction, but the assessee failed to substantiate that the case the deposit in the bank account was out of the agricultural Income. And in the absence of any documentary evidence, the AO made addition of the cash deposit.

6.2 During the course of appellate proceeding as well the appellant failed to submit the details in support of its claim and has only stated that the cash deposit was out of the agricultural activities without submitting any supporting documents. The appellant also relied upon certain case laws. However, the case laws can only be accepted if they are having same facts of the case, whereas in this case the appellant has failed completely to substantiate that the cash deposit is out of the agricultural Income. So far the appellant has only submitted the ITR copy, Rinpustika & the bank account statement. There is no evidence stating that the cash deposited was out of the agricultural activities or even any documentary evidence whether the appellant was involved in agricultural activities during the year such as sales receipts of the agricultural produce, evidence for purchasing the

seeds/fertilizers or details the crops with relevant documents. The appellant has claimed in the statement of facts that he is taking land on lease from the villagers for the purpose of farming but no such details/evidence were either during the course of the assessment proceeding or during the appellate proceedings.

6.3 In view of the above the claims of the appellant cannot be accepted and these grounds of appeal are dismissed.”

7. That even during the course of hearing before this Bench, the Ld. Counsel for the assessee reiterated the submissions that were placed before the sub-ordinate authorities and had not filed any evidence to demonstrate that the cash deposited were out of agricultural activities of the assessee. The Ld. Counsel however prayed before this Bench for one final opportunity to represent the matter on merits before the first appellate authority and submitted that they shall make sufficient endeavor to gather and furnish evidence relating to the fact that the assessee was taking land on lease from villagers for the purpose of farming and that they shall also place as evidence before the Ld. CIT(Appeals)/NFAC such as sale receipts of agricultural produce, evidence regarding purchase of seeds/fertilizers, details of crop sold etc.

8. The Ld. Sr. DR though principally placed strong reliance on the findings of the sub-ordinate authorities, however, in the interest of justice, conceded that the matter may be revisited and if the assessee is able to demonstrate that the source of cash deposits was from agricultural

produce then the course of action will definitely tilt in favour of the assessee. Therefore, before arriving at any conclusion, the assessee may be given one opportunity to substantiate his claim through documentary evidence before the first appellate authority.

9. Having heard the parties and analyzed the facts and circumstances in this case, I am in full agreement with the submissions of the Ld. Sr. DR that before arriving at any conclusion, the assessee should be given one final opportunity to produce documentary evidence establishing the genuineness of claim made by him. That even the Ld. Counsel had prayed before this Bench for one final opportunity so that the relevant documents can be placed on record and that they shall make sufficient efforts to bring on record such documentary evidences. Considering the totality of the facts and circumstances, I set-aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file for denovo adjudication. At the same time, the assessee is also directed to comply with the hearing notices before the Ld.CIT(Appeals)/NFAC and represent the matter on merits. The Ld.CIT(Appeals)/NFAC shall pass a speaking order in terms with Section 250(4) & (6) of the Act.

10. As per the above terms grounds of appeal raised by the assessee are allowed for statistical purposes.

11. In the result, appeal of the assessee in ITA No.266/RPR/2025 for A.Y.2013-14 is allowed for statistical purposes.

ITA No.267/RPR/2025
A.Y.2017-18

12. As the facts and issues involved in the captioned appeal remains the same as were there before me in ITA No.266/RPR/2025 for A.Y.2013-14, therefore, the observations recorded in that appeal i.e. ITA No.266/RPR/2025 for A.Y.2013-14 shall mutatis mutandis apply for the appeal filed by the assessee in ITA No.267/RPR/2025 for A.Y.2017-18. In this case also, I set aside the order passed by the Ld. CIT(Appeals)/NFAC and remand the matter back to its file with similar terms as were recorded by me in ITA No.266/RPR/2025 for A.Y.2013-14.

13. In the result, appeal of the assessee in ITA No.267/RPR/2025 for A.Y.2017-18 is allowed for statistical purposes.

14. In the combined result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open court on 20th day of June, 2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 20th June, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur