

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.842 & 843/Ind/2024
Assessment Year:2013-14 & 2014-15

Radha Bai, 39B, Gram Palasi, Huzur, Bhopal	<u>बनाम/</u> <u>Vs.</u>	ITO 5(1) Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: BGGPB4795Q		
Assessee by	Shri S.S. Solanki, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.06.2025	
Date of Pronouncement	17.06.2025	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

The captioned two appeals have been filed by assessee for assessment-years ["AY"] 2013-14 & 2014-15 against two separate orders of first-appeal dated 19.09.2024 and 16.05.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of respective assessment-orders dated 03.12.2019 passed by learned ITO-5(1), Bhopal ["AO"] u/s 144 r.w.s. 147 of Income-tax Act, 1961 ["the Act"].

2. The registry has informed that these appeals are delayed by 9 days and 135 days respectively and therefore time-barred. Ld. AR for assessee submitted that the assessee has filed applications for condonation of delay supported by affidavits on stamp. Referring to contents of same, Ld. AR submitted that the assessee is a lady; that she has ill health; that she is illiterate and putting only thumb impression on documents; that she did not have any knowledge of ongoing proceedings of first-appeal, which has led to non-representation before CIT(A) as well as delayed filing of these appeals. Ld. AR very humbly submitted that there is no lethargy, negligence, mala fide intention or ulterior motive of assessee in making delay and the assessee does not stand to derive any benefit because of delay. He further submitted that the sole reason of delay is as mentioned in assessee's affidavit. He submitted that there is "sufficient cause" for delay and hence the delay should be condoned.

3. Ld. AR further filed Written-Synopsis in both of these matters which are scanned and re-produced below:

Hearing fixed on 16/06/2025

S.S. SOLANKI & CO.

OFF:402 Trade House

CHARTERED ACCOUNTANT

14/3, South Tukoganj, Indore

BEFORE THE HON'BLE TRIBUNAL, INDORE BENCH, INDORE

Reg:Smt Radha Bai, Bhopal,

Assessment Year 2013-2014

ITA NO.842/IND/2024

SYNOPSIS

- 1.1 The appellant is an individual lady.
- 1.2 During the year, the assessee alongwith 3 Co owners sold an agricultural land for a sum of Rs.1,12,69,270/-(Rs.76,60,000/-+Rs.36,09,270/-) vide registered sale deeds. The assessee was having 1/4th share in it.
- 1.3 The AO issued notices which could not be served on to the assessee as the assessee lives in a remote village.
- 1.4 The AO, however, took the value of Rs.33 lacs per acre on the basis of documents found during search & seizure operation and also statements recorded. The total sale consideration as per AO, therefore came to Rs.3,67,62,000/- and assessee's share was determined at Rs.91,90,500/-(1/4th of Rs.3,67,62,000/-).
- 1.5 The AO taxed entire Rs.91,90,500/- without giving credit for cost of acquisition, cost of improvement, brokerage and without allowing credit for investment made u/s 54 if any.

- 1.6 Aggrieved, the assessee filed an appeal before learned CIT(A). However she could not pursue the appeal as she is an old illiterate lady lives in village and due to her health condition also.
- 1.7 The learned CIT(A) without going into merits of the case dismissed the appeal of the assessee for non-compliance.
- 1.8 That as stated above, the assessee is an old, illiterate village widow lady not having knowledge about the income tax proceedings. Non compliance occurred due to non service of notice / non awareness.
- 1.9 That following points needs to be checked before coming to a logical conclusion:-
- (i) Whether the land sold was a rural agricultural land.
 - (ii) Whether documents on which reliance was placed by the AO (found during search & seizure operation) were supplied to the assessee for confrontation.
 - (iii) Whether copies of statements on which reliance was placed were provided to the assessee.
 - (iv) Whether opportunity of cross examination of parties whose statements were relied upon was given.
 - (v) Whether deduction for cost of acquisition / improvement / expenses on sale (brokerage) and deduction for investment made was given.
- 1.10 It's a fact that both the orders i.e. before the AO and before learned CIT(A) have been passed exparte for various reasons. Like the notices sent by AO were not served on the assessee and proper compliance before learned CIT(A) could not be made as the assessee lives in a remote village where communication is difficult, being an illiterate old

village lady was not having any email id and her health was also an issue.

1.11 In view of submission made above, we very humbly pray to your honor's that the appeal may please be set aside to the AO to consider all the issues afresh.



Hearing fixed on 16/06/2025

S.S. SOLANKI & CO.

OFF:402 Trade House

CHARTERED ACCOUNTANT

14/3, South Tukoganj, Indore

BEFORE THE HON'BLE TRIBUNAL, INDORE BENCH, INDORE

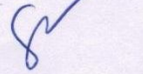
Reg:Smt Radha Bai, Bhopal,

Assessment Year 2014-2015

ITA NO.843/IND/2024

SYNOPSIS

- 1.1 The appellant is an individual lady.
- 1.2 During the year, the assessee alongwith 3 Co owners sold an agricultural land for a sum of Rs.24,26,000/- vide registered sale deed. The assessee was having 1/4th share in it.
- 1.3 The AO issued notices which could not be served on to the assessee as the assessee lives in a remote village.
- 1.4 The AO, however, took the value of Rs.33 lacs per acre on the basis of documents found during search & seizure operation and also statements recorded. The total sale consideration as per AO, therefore came to Rs.79,20,000/- and assessee's share was determined at Rs.19,80,000/-(1/4th of Rs.79,20,000/-).
- 1.5 The AO taxed entire Rs.19,80,000/- without giving credit for cost of acquisition, cost of improvement, brokerage and without allowing credit for investment made u/s 54 if any.
- 1.6 Aggrieved, the assessee filed an appeal before learned CIT(A). However she could not pursue the appeal as she is an old illiterate lady lives in village and due to her health condition also.



- 1.7 The learned CIT(A) without going into merits of the case dismissed the appeal of the assessee for non-compliance.
- 1.8 That as stated above, the assessee is an old, illiterate village widow lady not having knowledge about the income tax proceedings. Non compliance occurred due to non service of notice / non awareness.
- 1.9 That following points needs to be checked before coming to a logical conclusion:-
- (i) Whether the land sold was a rural agricultural land.
 - (ii) Whether documents on which reliance was placed by the AO (found during search & seizure operation) were supplied to the assessee for confrontation.
 - (iii) Whether copies of statements on which reliance was placed were provided to the assessee.
 - (iv) Whether opportunity of cross examination of parties whose statements were relied upon was given.
 - (v) Whether deduction for cost of acquisition / improvement / expenses on sale (brokerage) and deduction for investment made was given.
- 1.10 It's a fact that both the orders i.e. before the AO and before learned CIT(A) have been passed exparte for various reasons. Like the notices sent by AO were not served on the assessee and proper compliance before learned CIT(A) could not be made as the assessee lives in a remote village where communication is difficult, being an illiterate old village lady was not having any email id and her health was also an issue.

1.11 In view of submission made above, we very humbly pray to your honor's that the appeal may please be set aside to the AO to consider all the issues afresh.



4. Ld. AR prayed the Bench to condone the delays. He further prayed to remand these matters to the file of AO for adjudication afresh as requested in Para 1.11 of Written-Synopsis re-produced above.

5. Ld. DR for revenue left the matter to the wisdom of Bench without raising any objection and without controverting the submissions and prayer made by Ld. AR.

6. We have considered the submissions made by both sides as noted above. So far as delays in filing these appeals are concerned, the assessee has given reasoning that she is a lady; she has ill health; she is illiterate and putting only thumb impression and she did not have any knowledge of ongoing proceedings of first-appeal. In absence of any contrary fact or material on record or rebuttal from revenue's side, the reasoning given by assessee is accepted. Thus, the assessee is found to have a "sufficient cause" for delay in filing present appeals. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time.

It is also a settled position by Hon'ble Supreme Court in ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387*** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Thus, taking into account the provision of section 253(5) and the decision of Hon'ble Supreme Court, we are inclined to take a judicious view. At the same time, we also find that the assessee has not made any representation before both of the lower authorities. Therefore, considering entire conspectus of case, we are inclined to condone delay and remand these matters to the file of AO for a fresh adjudication, subject to payment of cost of Rs. 5,000/- in each matter by assessee to the 'Prime Minister National Relief Fund' and filing of proof of such payment to AO. Needless to mention that the AO shall give necessary opportunity of hearing to assessee and pass appropriate orders uninfluenced by his earlier orders. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate orders in accordance with law. Ordered accordingly.

7. Resultantly, these appeals are allowed for statistical purpose.

Order pronounced in open court on 17/06/2025

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 17/06/2025

Patel/Sr. PS

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

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore