

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

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 538/Asr/2024
Assessment Year: 2014-15

Hardik Bharti, 75/5 Green
Model Town, Jalandhar,
Punjab 144003

Vs.

ITO Ward 4(3),
Jalandhar

[PAN: AQJPB 2278C]

(Appellant)

(Respondent)

Appellant by	:	None
Respondent by	:	Sh. Rajiv Wadhwa, Sr. D. R.
Date of Hearing	:	24.04.2025
Date of Pronouncement	:	30.05.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 31.07.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the ITO, Ward 4(3), Jalandhar dated 19.05.2023 passed u/s 154 of the I.T. Act, 1961.

2. The main objection raised by the assessee in his grounds of appeal in Form-36, relates to the order passed by the Id. CIT(A), referring to admit the appeal on account of delay of 50 (fifty) days in filing the appeal, before the first appellate authority.

3. Brief facts emerging from records are that the assessee are an individual has returned income from capital gains amounting to Rs.4,23,900/- which has been processed by CPC, Bengaluru at Rs. 8,47,800/- u/s 143(1), which is exactly double the amount of the income returned. A rectification application u/s 154 was filed before the jurisdictional Assessing Officer for rectification of the error apparent from record of the intimation u/s 143(1), which was rejected by the jurisdictional Assessing Officer, vide order dated 19.05.2023, on the ground that the assessee has declared the amount of capital gains at Rs.4,23,900/- *in the column No. A2c of the Schedule CG* which has resulted in this assessment by CPC, Bengaluru generated out of the system and the according to the AO, the same cannot be reduced by invoking the provisions of section 154 and as such, the application has been disposed of accordingly without any benefit to the assessee.

4. The matter carried in appeal before the Id. CIT(A), NFAC, has been dismissed in limine, without admitting the appeal for hearing and adjudication on merits, because the appeal was belatedly filed by *50 days* and the deficiency letter issued by the Id. CIT(A) has not been responded to by the assessee, even though in the

memorandum of appeal in Form No. 35, the reason for delay was treated to be medical illness.

5. Before the Tribunal, there was no appearance by the assessee or his Id. AR, but, on the basis of the statement of facts and the grounds of appeal contained in Form No. 36, we find that the assessee has submitted an affidavit and other documentary evidences regarding the rectification in respect of the capital gains declared in the return and its subsequent assessment by CPC, Bengaluru (*which is computer generated*) without any hearing at exactly double the returned income figure.

6. As such, we proceed to dispose of this appeal considering the materials contained on records, after hearing the Id. DR who is present in the court.

7. In the instant case, we find that the appeal filed before the Id. first appellate authority was belated by 50 days (fifty) and the assessee has stated the reasons of delay to be on medical grounds which was not found to be satisfactory by the Id. first appellate authority. We are of the opinion, that in the instant case, the delay is marginal and for rendering of substantial justice, the delay needs to be condoned on medical grounds and the appeal should be admitted by the Id. first appellate authority to be considered and adjudicated on the grounds contained in the memorandum of appeal in Form No. 35 on merits.

8. As such, we are of the opinion that the interest of justice would be served if the matter is remanded back to the files of the ld. first appellate authority for admitting the appeal and for disposal of the same by adjudicating on the grounds contained in Form No. 35, on merits, and the assessee is also directed to file all necessary supporting evidences and submissions before the first appellate authority and to fully cooperate in appeal proceeding for proper disposal of the case.

9. The assessee should be allowed a reasonable opportunity of being heard.

10. We have not expressed any opinion on merits.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 30.05.2025

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order