

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 135/PAT/2025
Assessment Year: 2017-2018**

**Arpana Jha,.....Appellant
C/o. Namu Nath Jha,
Banuchhapar, Sant Kabir Road,
Near K.P.M. School, Bihar-845438
[PAN:AHMPJ6389G]**

-Vs.-

**Income Tax Officer,.....Respondent
Ward-1(5), Bettiah**

Appearances by:

*Shri Nishant Maitin, C.A., appeared on behalf of the
assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

Date of concluding the hearing: June 17, 2025

Date of pronouncing the order: June 24, 2025

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 21st October 2024 passed for Assessment Year 2017-18.

2. The appeal is time barred by 174 days in filing the appeal by the assessee before the Id. CIT(Appeals). The assessee submits that

the delay in filing the appeal was caused to circumstances, which was beyond control of the assessee, but ld. CIT(Appeals) dismissed the appeal without condoning the delay. Not being satisfied, the assessee preferred an appeal before the ITAT. The appeal is also time barred by 79 days in filing the appeal before the ITAT. The assessee did not file any condonation petition before the ITAT.

3. Considering the overall facts and circumstances of the case, I am of the view that the assessee was prevented in filing the appeal before the ld. CIT(Appeals) within the stipulated time as well as ITAT. Therefore, I am inclined to condone the delay. Hence the delay is condoned.

4. Brief facts of the case are that the assessee is an Individual and she is proprietor of Aparna Textile Agency and involved in trading as well as authorized agent of M/s Shera Hoseiry. The assessee has not filed return of income for the year under consideration. The case of the assessee has been reopened to verify deposit of cash amounting to Rs. 2,18,35,000/- in current account of State Bank of India at Ujjain Tola Branch, West Champaran, Bihar during the F.Y. 2016-17. The ld. Assessing Officer passed the order u/s 144 r.w.s. 147 r.w.s. 144B of Income Tax Act 1961. Accordingly, statutory notice u/s 148 of the Act was issued on 25/03/2021 and the same was duly served on the assessee. Further, notice u/s 142(1) of the Act dated 16/06/2021 was issued. The assessee responded to the notice on 05.08.2021. The case of the assessee was transferred to Faceless assessment on 05.08.2021 and notices u/s 142(1) of the Act dated 25/11/2021

along with questionnaire calling for various details with compliance date 10.12.2021 was issued. The assessee was asked to submit the details such as source of cash deposited in the SBI. The assessee did not reply to the notice within the period of compliance however the assessee responded on 20.12.2021. The assessee submitted that all sales have been done in cash during the Year under consideration and sale proceeds have been deposited in current account of SBI. The assessee has submitted Balance Sheet, Profit & Loss Accounts and Audit report for the Financial Year 2016-17. Based on the information available in Profit & Loss Account of the assessee, the total sales of the year under consideration were Rs.1,81,86,049/-. However, based on the information available in form AS26 and Bank statement of the assessee, the total cash deposited by the assessee during the year is Rs. 2,18,35,000/-. This deposit has been confirmed by the assessee, however the assessee has not explained the source of deposit of Rs. 36,48,951/- (The difference between total deposit and cash sales). Thus, the source of cash deposit amounting to Rs.36,48,951/- remains unexplained. The assessee was also asked the reason for not filing the Income Tax return since she was having taxable income. The assessee replied that she has filed Income Tax Return on 16.08.2021. As per notice issued u/s 143(2) on 08.03.2022, the assessee provided reason for reopening the case. It is noticed that the source of cash deposit amounting to Rs.36,48,951/- remains unexplained. The assessee was issued Show Cause Notice on 26.03.2022 with a compliance date as on 29.03.2022 to make submission if any and propose the amendments in the draft assessment order, however the assessee

made no response to Show Cause Notice, hence the assessment order completed based on the facts and circumstances of the case that the cash deposit by the assessee in the current account of State Bank of India at Ujjain Tola Branch, West Champaran, Bihar amounting to Rs. 36,48,951/- treated as unexplained cash deposit with bank and added to the income of the assessee u/s 69A of the Income Tax Act 1961. The ld. Assessing Officer finally assessed income of the assessee at Rs.40,32,038/-.

5. Being not satisfied, the assessee preferred an appeal before the ld. CIT(Appeals).

6. The contention of the ld. Counsel for the assessee is that the ld. CIT(Appeals) dismissed the appeal of the assessee *in limine* without condoning the delay in filing appeal before him. He further submitted that the assessee was not aware of the date of hearing before the ld. CIT(Appeals) and was not in a position to appear before the ld. CIT(Appeals). The ld. CIT(Appeals) dismissed the appeal of the assessee without condoning the delay saying that the assessee is thoroughly negligent in prosecuting her case.

7. On the other hand, ld. Departmental Representative submitted that sufficient opportunity was being provided to the assessee to substantiate her claim. Therefore, the ld. CIT(Appeals) has no other option except dismissing the appeal and he pleaded to uphold the order passed by the ld. CIT(Appeals).

8. I have heard both the sides and perused the material available on record. The delay within the stipulated period in filing

the appeal before the Id. CIT(Appeals) was caused to unavoidable circumstances, which was beyond control of the assessee. Therefore, in order to ensure the principle of natural justice, I am of the view that it is a fit case to provide one more opportunity to the assessee to decide the issue afresh in accordance with law and merit of the case. Therefore, I remit the matter back to the file of Id. CIT(Appeals) with a direction to dispose of the appeal without any inference on the observations of earlier order passed by him. Thus, the grounds raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24/06/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 24th day of June, 2025

Copies to : (1) Arpana Jha,
C/o. Namu Nath Jha,
Banuchhapar, Sant Kabir Road,
Near K.P.M. School, Bihar-845438
(2) Income Tax Officer,
Ward-1(5), Bettiah
(3) CIT(Appeals), NFAC, Delhi;
(4) CIT - ;
(5) The Departmental Representative;
(6) Guard File
TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.