

**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.912/Ind/2024  
Assessment Year 2019-20

Lal Sahab Chourey, Ward No.15 Malviya Ganj, Vishwakarma Nagar, Itarsi, Hoshangabad  <b>(PAN: BADPC3337E)</b>	<b>बनाम/</b> Vs.	CIT, NFAC, Delhi
(Assessee/Appellant)		(Revenue/Respondent)
Assessee by	Shri Gagan Tiwari, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	16.06.2025	
Date of Pronouncement	24.06.2025	

**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/240/2024-25/1067399203(1) dated 07.08.2024 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 2019-20 and the corresponding previous year period is from 01.04.2018 to 31.03.2019.

2.

**FACTUAL MATRIX**

2.1 That as and by way of an assessment order made **u/s 147 r.w.s. 144B of the Act**, the assessee’s total income exigible to tax was computed and assessed at **Rs.20,82,998/-**. The assessee’s Return of Income was **Rs.82,998/-**. **Addition of Rs.20,00,000/- was made**. That the aforesaid assessment order bears No: ITBA/AST/S/147/2023-24/1060566699(1) dated 06.02.2024 which is hereinafter referred to as the “**impugned assessment order**”.

2.2 That the assessee being aggrieved by the “**impugned assessment order**” prefers first appeal u/s 246A of the Act before the CIT(A) who by the “impugned order” has dismissed the appeal of the assessee on grounds and reasons stated therein.

2.3 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 the order of the CIT(A) is perverse, erroneous and is not tenable on facts and in law and also in breach of principle of natural justice. That the CIT(A) has erred in passing order a mechanical order without the application of mind.*

*2. That the CIT(A) has erred in conferring the EX-parte order passed u/s 144 of the act by the Assessing Officer, without acknowledging that the Appellant had no cognizance of the Assessment order been passed against him. There was no postal service of any order passed against the assessee, thus without the knowledge of any order been passed, the Appellant had no opportunity of hearing and explaining his case thus the order of CIT(A) is against the principles of natural justice.*

*3. The Ld. CIT (A) erred in enhancing the total income of appellant without following the statutory provision which clearly provides for issue of notice and grant of proper opportunity of hearing before enhancing any income of the Assessee.*

*4. That the CIT(A) erred in confirming the addition of Rs 20.00,000/- u/s 69A without providing the Assessee/Appellant proper opportunity of hearing and presenting its case.*

*5. The appellant craves permission to raise additional grounds and to amend or alter the foregoing ground before the appeal is finally decided."*

3. Record of Hearing

3.1 The hearing in the matter took place before this Tribunal on 16.06.2025 when the Ld. AR for and on behalf of the assessee appeared before us and interalia brought to our notice that the **registry of the tribunal** has pointed out that there is a delay of 79 days in filing the present appeal before this Tribunal. We

observe that the **“impugned order”** is dated **17.08.2024**. The appeal was filed on **25.12.2024**. It ought to have been filed on or before **07.10.2024** i.e. 60 days time limit. The assessee has placed a condonation of delay application on record of this Tribunal seeking condonation in filing the present appeal. It is contended that assessee is educated up to 10<sup>th</sup> standard only. At the material time he was employed in private capacity at Itarsi, M.P and was drawing salary of Rs.8000/- per month during the assessment year 2019-20. He lacks technical knowledge. Since his income was below taxable limit he does not visit Income Tax portal. Notice(s) came on portal which remained unattended and an assessment order **U/s 144** of the Act came to be passed. He engaged Advocate Dharmendra Gupta who filed appeal before CIT(A). He gave his pass word to Advocate so that he could check his e-mails. Due to oversight Advocate and his office staff could not check e-mail and that in December, 2024 he came to know from his Advocate office that **“impugned order”** dated **07.08.2024** is passed by NFAC and that now appeal is required to be filed before ITAT, Indore. In support of condonation of delay **two affidavits** are placed on record of this Tribunal. It was also

contended that delay was bonafide and it should be condoned. Ld. DR for and on behalf of the Revenue contended that he has no objection if delay is condoned. We accordingly condone the delay. Appeal is admitted and taken up for hearing.

3.2 That the Ld. AR for and on behalf of the assessee then contended that **"impugned order"** is bad in law, illegal and not proper. It is in violation of principles of natural justice. The **"impugned order"** therefore should be set aside. In the **"impugned order"** Ld. CIT(A) has not condoned the delay and have erroneously held as under:-

*"3. It is clear from the above that the order u/s 147 r.w.s 144 was made on 06.02.2024 which got served upon the appellant on 06.02.2024 but the appeal was filed on 20.05.2024 i.e. beyond prescribed time of 30 days, whereas, the appellant was required to file appeal within 30 days as provided vide section 249(2) on receipt of order u/s 147 r.w.s 144. The contention of the appellant regarding notice received in first week of May is itself contrary as the appellant in form 35 himself has stated that order was received on 06.02.2024 itself. Therefore, the contention of the appellant is without any substance in it. The appellant was required to file appeal within 30 days of the receipt of demand notice. However, the appellant has not done so. Hence, the reason stated can't be relied upon and therefore, as provided in the section 249(3) of the IT Act. Accordingly, I am not satisfied that the appellate had sufficient cause for not presenting the appeal within the specified period. Hence, since, appeal was not filed within prescribed time as provided in the section 249(2) of the IT Act, the same is not admitted.*

*4. In view of the above facts, the appeal is dismissed for statistical purpose and not required to be adjudicated on merits."*

3.3 Basis above Ld. AR submitted that a hyper technical approach is adopted by the Ld. CIT(A) in his **“impugned order”**. The **“impugned order”** is not on merits. Per contra Ld. DR for revenue has left the issue of delay before CIT(A) to be decided by bench as they deem fit.

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 and so also after hearing and upon examining the contentions are of the considered opinion that **both the orders of lower authorities** i.e. Ld. A.O and CIT(A) are not on merits of the case. In the **“impugned order”** **merits are not examined and considered** as first appeal was dismissed on issue of delay in filing first appeal itself. The **“impugned assessment order”** was dated 06. 02.2024 and appeal was filed on 20.05.2024 i.e. beyond prescribed time of 30 days. The assessee came to know of **“impugned assessment order”** dated 06.02.2024 only when he received the notice of demand in first

week of May, 2024 and that was the reason for delay in filing first appeal. We are of the considered view that first appeal ought not to have been dismissed as time barred as delay was not deliberate or intentional. This tribunal desires computation of correct income on merits.

4.4 In the premises set out herein above, we set aside the **“impugned order”** and remand the case back to the file of Ld. A.O to pass a fresh assessment order on *denovo basis*.

5. **Order**

5.1 The **“impugned order”** is set aside and the matter is remanded back to Ld. A.O to pass a fresh order on *denovo basis*.

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

Order pronounced in open court on 24.06.2025.

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

Indore

दिनांक/ Dated : 24/06/2025

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