

**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.36 & 37/Ind/2025**  
**Assessment Year: 2011-12 & 2012-13**

Prabha Tripathi (L/R of Late Raghav Ram Tripathi), 54-55, Sagar Royal Villas, Hoshangabad Road, Bhopal	<b><u>बनाम/</u></b> <b><u>Vs.</u></b>	ITO 2(4) Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
<b>PAN: AAMPT3709M</b>		
Assessee by	Shri Gagan Tiwari, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	25.06.2025	
Date of Pronouncement	26.06.2025	

**आदेश / ORDER**

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

Feeling aggrieved by two separate orders of first-appeal for Assessment-Year ["AY"] 2011-12 & 2012-13 dated 18.05.2023 & 14.07.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of respective assessment-orders dated 27.11.2018 & 06.12.2019 passed by learned ITO-2(4)/2(1), Bhopal ["AO"] u/s 143(3) r.w.s.

147 of Income-tax Act, 1961 [“the Act”], the assessee has filed these appeals on the grounds mentioned in Appeal Memo (Form No. 36).

2. Ld. AR at the outset submitted that the assessee in these cases was “Raghav Ram Tripathi” who had deceased on 09.04.2021. Copy of death certificate is placed on record. Therefore, wife of assessee “Smt. Prabha Tripathi” has signed and verified Form No. 36 and pursuing these appeals as “Legal Representative [L/R]”. Ld. AR pointed a crucial fact that the assessee had died during pendency of first-appeal itself and there was no information to CIT(A) qua death of assessee, hence the CIT(A) has passed order in the name of deceased assessee without taking on record the L/R.

3. The Registry has informed that these appeals are delayed by 527 days and 466 days respectively and therefore time-barred. Ld. AR submitted that the L/R has filed applications for condonation of delays with her affidavits on stamp papers. The affidavit filed in *ITA No. 36/Ind/2025 of AY 2011-12* is scanned and re-produced below for an immediate reference and similar affidavit has been filed for *ITA No. 37/Ind/2025 of AY 2012-13* except change of certain dates:

**Prabha Tripathi L/R of Late Raghav Ram Tripathi  
ITA No. 36 & 37/Ind/2025, AYs. 2011-12 & 2012-13**

APPELLANT	:	LATE SHRI RAGHAV RAM TRIPATHI
		LEGAL HEIR: PRABHA TRIPATHI
		54-55 SAGAR ROYAL VILLAS, HOSHANGABAD ROAD, BHOPAL - 462026, MADHYA PRADESH, INDIA
PAN	:	AAMPT3709M
A.Y	:	2011-12

I **Prabha Tripathi** R/o 54-55 Sagar Royal Villas, Hoshangabad Road Bhopal – 4620226, Madhya Pradesh, wife and legal heir of Late Shri Raghav Ram Tripathi do hereby solemnly affirm as under :-

1. The assessment order for the relevant assessment year was passed on 27.11.2018 in which the total income of Rs.1,86,710/- was assessed by Learned Assessing Officer at Rs. 96,88,662/-. The addition of Rs.73,81,912/- was made on account of Long-Term Capital Gains and addition of Rs. 21,20,000/- on account of unexplained money.
2. Shri Raghav Ram Tripathi , the deceased assessee, expired on 09.04.2021 due to heart attack at the age of about 78 years .
3. The other members in the family are my son Mr. Atul Tripathi and married daughter Mrs Sangeeta Tripathi . I being wife of Late Shri Raghav Ram Tripathi is his legal heir.
4. The Appeal was submitted against the disputed additions in the assessment order, before The Hon'ble CIT Appeals on 04.04.2019, who dismissed the appeal on 18.05.2023, due to non compliance. The Email and mobile number mentioned in Form No. 35 was of my husband rrtripathibhopal@gmail.com and 9826489252 respectively. After his death the mobile number was deactivated and nobody in the family was tracking the Emails. In mode of communication the phone number mentioned is 9826489252 and email id was mentioned as khandelwalbhopal@gmail.com. The phone number is of my husband but I don't know who filed the appeal and whose email id khandelwalbhopal@gmail.com. Copy of Death Certificate is enclosed herewith.

NOTARY  
POOJAN LAL VISHWAKARMA  
REG. No. 1714  
EXP. 17 OCT 2029  
DISTT  
BHOPAL (M.P.)

**Prabha Tripathi L/R of Late Raghav Ram Tripathi  
ITA No. 36 & 37/Ind/2025, AYs. 2011-12 & 2012-13**

5. The appeal before The Hon'ble Income Tax Appellate Tribunal is being filed against the order passed by The Hon'ble CIT Appeals against the disputed additions made, by me, in the capacity as legal heir.
6. However there is a delay of 599 days in filing the appeal due to the following reasons :-
  - a. I am not an Income Tax assessee and due to lack of legal advise the registration of myself as a legal heir was also not done.
  - b. That the appellate order was passed on 18/05/2023 and was uploaded on the online Income Tax E-filing portal on that date, however, it did not come in my or anybodys else notice in the family , since no order was received by post, neither anybody in the family was knowing about the pending case nor having login id and password of my husband .
  - c. Bank account no. 30389892073 in SBI Hoshangabad Road Bhopal, of my son Mr. Atul Triphati was attached for non payment of demand, since this was a joint account of my husband and my son , Mr. Atul Triphati. After that we enquired the reason for attachment of the bank account and after long time , follow ups , the pendency of the proceedings of my husband , came to our knowledge when we attended Income Tax Department for Stay of demand and release of bank account.
  - d. Hence , I have to submit and request that I was not able to submit the appeal on time because of the reason that first I was not knowing about the pending cases and second , there was no legal help available to me.
  - e. After taking legal help , it came to knowledge that the appeal order has already been passed. It was advised to file an appeal before The Hon'ble Income Tax Appellate Tribunal, Indore , which is being now submitted against the aforesaid order.
  - f. All this took time and thereafter the appeal fees was deposited and appeal got prepared for submission and is being submitted.
  - g. That on that basis appeal was to be filed by 18.07.2023 (within 60 days from 18.05.2023). The appeal is being submitted on 08.01.2025. In this process there was delay of 599 days till 08.01.2025.



7. The appeal is therefore being filed before The Hon'ble Tribunal with a request to kindly condone the delay in filing the appeal, in the interest of natural justice, in merits of the case.

प्रभा त्रिपाठी

Deponent

**VERIFICATION**

I, **Prabha Tripathi (Legal Heir of Raghav Ram Tripathi)** do hereby verify that the contents in paras 1 to 7 are true to the best of my knowledge and belief.

Dated : 08/01/2025

Place : Bhopal

प्रभा त्रिपाठी

Deponent

4. Referring to contents of above affidavit, particularly Para No. 4 and 6(b) to 6(f), Ld. AR explained the averments made therein by L/R. He narrated that the email id: [rrtripathibhopal@gmail.com](mailto:rrtripathibhopal@gmail.com) and phone number 9826489252 belonging to deceased assessee were given in Form No. 35 of first-appeal filed to CIT(A) but after death of assessee, the mobile number was de-activated and there was nobody in family to check the email a/c. The L/R has further averred that she was not aware of first-appeals filed and pending before CIT(A); that the impugned order passed by CIT(A) was not received by post; that it is when the bank a/c of son Mr. Atul Tripathi was attached for non-payment of demand that the L/R filed an application dated 09.09.2024 to AO for stay over recovery of demand and even in that

application, copy at Page No. 5 of Paper-Book, the L/R requested the AO to grant stay "till disposal of first-appeal" which clearly shows that the L/R was not aware of the impugned ex-parte orders dated 18.05.2023 & 14.07.2023 having been passed by CIT(A). Ld. AR submitted that it is thereafter the assessee made further enquiries in the matter and lately came to know that the impugned orders had been passed ex-parte whereby the first-appeals had been dismissed for non-prosecution. Hence, there occurred impugned delays in filing appeals. Ld. AR very humbly submitted that there is no lethargy, negligence, mala fide intention or ulterior motive in making delay and the L/R does not stand to derive any benefit because of delay. He submitted that the sole reason of delay is as narrated which is a "sufficient cause". Ld. AR went ahead to submit that the assessee's cases are quite meritorious but the CIT(A) has dismissed appeals by passing a small para of just 2-3 sentences which is not in accordance with section 250(6) of the Income-tax Act, 1961 which provides that *"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*. Relying upon ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387 (SC)***, Ld. AR prayed to condone the delays and remand these matters back to the file of CIT(A) for adjudication afresh in accordance with section 250(6) after giving necessary opportunity to L/R.

5. Ld. DR for revenue fairly agreed to the submissions and prayer of Ld. AR.

6. We have considered above submissions of both sides. We find that the issue of delays in filing these appeals has been appropriately addressed by Ld. AR/assessee and the Ld. DR does not have any objection against condonation of delay. Further, in present case, there is a peculiar fact that the assessee had deceased during pendency of first-appeals and the CIT(A) being unaware of the factum of death has passed impugned orders without taking Legal Representatives on record. Further, the CIT(A) has merely dismissed assessee's first-appeals for non-prosecution without making a meritorious adjudication in terms of section 250(6) of the Act. Therefore, looking into entire conspectus of case, we condone the filing-delays and admit these appeals. Further, we remand these cases to the file of CIT(A) for an apt adjudication in terms of section 250(6) after taking legal representatives on record. Ordered accordingly.

**7. Resultantly, this appeal is allowed for statistical purpose.**

Order pronounced in open court on 26/06/2025

Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

**Indore**

दिनांक /Dated : 26/06/2025

Patel/Sr. PS

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

***Prabha Tripathi L/R of Late Raghav Ram Tripathi  
ITA No. 36 & 37/Ind/2025, AYs. 2011-12 & 2012-13***

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