

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH", KOLKATA

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 506/KOL/2025
(Assessment Year 2014-15)**

&

**I.T.A. No. 507/KOL/2025
(Assessment Year 2017-18)**

Akash Jain,

C/o Subash Agarwal & Associates,
Advocates Siddha Gibson, 1,
Gibson Lane, Suite 213, 2nd Floor,
Kolkata - 700069
[PAN: AOIPJ6380C]

..... **Appellant**
vs.

ITO, Ward 32(1), Kolkata,
10, Middleton Row, Calcutta

..... **Respondent**

Appearances by:

Assessee represented by : Siddarth Agarwal, Advocate

Department represented by : Raja Sengupta, CIT-DR

Date of concluding the hearing : 03.07.2025

Date of pronouncing the order : 09.07.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER

1. This is batch of two appeals of the same assessee. The ITAT Registry has informed that both of these appeals are time barred by 706 days. For the sake of convenience, the affidavit filed in ITA No. 506/Kol/2025 is being reproduced for reference:

"I, Akash Jain, son of Shri Ashok Kumar Jain, aged 32 years, by religion Hindu, residing at 10C, Block-4, Silver Spring Apartment, 5 E.M Bypass, Topsia (South), Kolkata-700046, do hereby solemnly affirm and state as follows-

1. That an appeal relating to A.Y. 2014-15 was filed before the Ld. CIT(A), NFAC on 08.11.2022 against order dated 24.12.2019 u/s 144/263.

2. That the said appeal was dismissed by the Ld. CIT(A) by passing an adverse order on 19.10.2024.

3. That I was totally unaware of the appellate order as the said order was never received physically.

4. That later on, on or around last week of February, 2025 when your petitioner accessed the income tax portal and thereupon the said order was located in the Income Tax Portal which was already passed on 19.10.2024. It also transpired that the said order was lying in the spam folder of his mail box.

5. That then I immediately sought an appointment of Advocate Siddharth Gibson Lane, Kolkata 700069 for filing an appeal before the Honble handed over him all the relevant documents on 01.03.2025.

6. That the office of the said counsel prepared the appeal and finally filed on with a delay of around 70 days.

7. I give an undertaking that proper compliance shall be made from our end in case the matter is restored back to the file of lower authorities.

8. That the facts stated in para 1 to 6 are true to the best of my knowledge and belief and that in para 7 is an undertaking given by me.”

1.1 Considering the reasons given in the said affidavit, the delay is hereby condoned for ITA No. 506/Kol/2025. We see that the delay has been requested to be condoned on similar grounds in ITA No. 507/Kol/2025 and accordingly, even for that appeal the delay is condoned.

2. The appeal in ITA No. 506/Kol/2025 (AY 2014-15) arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) dated 19.10.2024 passed by the Ld. CIT(A), NFAC. This appeal is against an order u/s 144 r.w.s. 263 of the Act dated 24.12.2019, passed by the Ld. AO.

2.1 The appeal in ITA No. 507/Kol/2025 (AY 2017-18) order u/s 250 of the Act, dated 19.10.2024. This appeal is on a penalty u/s 271AAC1 of the Act.

2.2 In both of the appellate orders, the Ld. CIT(A) has not condoned a delay of 1021 days (ITA No. 506/Kol/2025) and a delay of 230 days (ITA No. 507/Kol/2025) in both of the appeals respectively and they have been dismissed as non-maintainable.

3. The assessee is aggrieved with this action and has approached the ITAT with grounds of appeal for both of the orders, in which one of the grievances is that the reasons presented before the Ld. CIT(A) requesting for condonation of delay were cogent and the Ld. CIT(A) should have considered them and adjudicated the appeals on merit. The Ld. AR drew our attention to the reasons given by the assessee as extracted in both of the impugned orders. The Ld. AR also stated that they have a good case on merit and given a chance they would present the facts before the assessing authorities and seek relief thereon.

3.1 The Ld. DR pointed out that the assessee had not complied with the notices issued by the Ld. AO in either of the cases and the careless attitude was visible since it was not only before the Ld. CIT(A) where there was a delay in filing of appeals but even before the ITAT. The Ld. DR supported the orders of authorities below.

4. We have carefully considered the rival submissions and have also gone through the records before us. It is seen that the assessee has chosen to be casual in terms of persuading the matters before the lower authorities. While we understand that the assessee deserves a second chance for presenting his case before the assessing authorities, we are also conscious of the fact that considerable resources have been expended by the IT Department in framing the orders before us. Accordingly, a cost of Rs. 25,000/- each is imposed in both of the appeals separately. The two amounts of Rs. 25,000/- each shall be paid to the Legal Aid Services, 3rd floor of the Centenary Building, High Court, Calcutta, 700001 within 60 days of receiving this order. Needless to say, the impugned orders in both the cases are set aside and the matters are remanded back to the Ld. AO for fresh assessment. We expect that the assessee would be alert to the opportunities given for hearing.

5. In result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced on 09.07.2025

Sd/-
(George Mathan)
Judicial Member

Sd/-
(Sanjay Awasthi)
Accountant Member

Dated: 09.07.2025
AK, Sr. P.S.

Copy of the order forwarded to:

1. Akash Jain
2. ITO, Ward 32(1), Kolkata
3. CIT(A)
4. CIT
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches