

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. 892/Ind/2024
(Assessment Year: 2015-16)

Subodhchand Soni 22, Ram Bazar, Sendhwa, Badwani (PAN:AEAPS5037D)	बनाम/ Vs.	Assessment Unit, Income Tax Department
(Assessee/Appellant)		(Revenue/Respondent)

Assessee by	Shri Sidharth Mahajan, AR
Revenue by	Shri Ashish Porwal, Sr. DR
Date of Hearing	16.07.2025
Date of Pronouncement	17.07.2025

आदेश / O R D E R

Per, B.M. Biyani, AM:

Feeling aggrieved by order of first-appeal dated 22.05.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 15.03.2023 passed by learned Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s. 144 and 144B of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The registry has informed that the present appeal has been filed on 17.12.2024 against impugned order dated 22.05.2024 and there is a delay of 78 days reckoned from 'date of service or communication of the order' to the 'date of filing' and 153 days from 'date of order' to the 'date of filing' as per the details furnished in Form No. 36, hence this appeal is time-barred. Ld. AR for assessee submitted that the assessee has filed an application for condonation of delay supported by affidavit on stamp. Referring to contents of same, Ld. AR submitted that the assessee is a senior person suffering from heart disease since the year 2011 and during recent period of the year 2024, the problem was more serious and recurring. The assessee has filed copies of medical records of "CHL Hospitals, Indore" showing hospitalisation during 20.06.2024 to 24.06.2024; "Naman Medical Investigation Laboratory" dated 01.10.2024; Dr. Dinesh S. Gaur's prescriptions dated 11.08.2024 & 20.02.2024, etc., to demonstrate the ill state of assessee. Ld. AR further submitted that the assessee was carrying on a small manufacturing unit which was also discontinued in earlier year due to bad health of assessee and assessee's old accountant named "Arvind Paliwal" was looking after financial and tax affairs whose email id arvindpali@yahoo.com was mentioned in departmental database and also given in Form No. 35 filed to CIT(A). Further, the mobile number of that accountant was registered in database of department. However, that accountant left job from assessee and did not inform assessee about the ongoing income-tax proceedings and

the impugned order served, if any, upon him. Ld. AR submitted that there was no physical service of any notice or order upon assessee. Ld. AR thus submitted that due to bad health of assessee coupled with the negligence of old accountant, neither the assessee's case could be represented before lower authorities nor the present appeal could be filed in time. Subsequently, when the assessee got knowledge of impugned order having been passed by CIT(A) as ex-parte, the assessee arranged to file present appeal before ITAT. Ld. AR prayed that having regard to the facts of case, a judicious view deserves to be taken and the delay in filing this appeal must be condoned.

3. Ld. AR next submitted that the orders passed by both of the lower-authorities are ex-parte for the reason that the assessee was not aware of the notices sent by authorities. He submitted that the assessee is, however, willing to make representation with necessary evidences as may be required and therefore the present matter may be remanded to appropriate lower authority.

4. Ld. DR for revenue submitted that considering the facts of case and in the interest of justice, he is not against the prayers made by Ld. AR. He, however, requested that a suitable cost must be imposed upon assessee. He further proposed that since both of the orders of lower-authorities are ex-parte, it would be better to restore this case to the file of AO. He requested that the assessee must be directed to ensure participation before AO.

5. We have considered the explanation advanced by assessee in the solemnized affidavit and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal as narrated above. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387*** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach.

6. We, however, find merit in the submission made by Ld. DR for revenue for imposition of cost upon assessee and also to remand this matter to the file of AO. Accordingly, we condone the delay and remand this matter to AO subject to a cost of Rs. 5,000/- to be paid by assessee to "Prime Minister National Relief Fund" and submission of proof by assessee to AO. Needless to mention that the AO shall give necessary opportunity of hearing to assessee and pass appropriate order. The assessee is also directed to ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

7. Resultantly, this appeal is allowed for statistical purposes.

Order pronounced in open court on 17/07/2025

Sd/-
(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/ Dated : 17/07/2025

Patel/Sr. PS

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