

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
'SMC' BENCH, KOLKATA**

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

**I.T.A. No. 143/KOL/2025  
Assessment Year: 2019-2020**

**Radheshyam Sahu,.....Appellant  
17, Belilious Road,  
Near Vikram Vidyalaya Branch,  
Howrah-711101, West Bengal  
[PAN:BXRPS5768N]**

**-Vs.-**

**Income Tax Officer,.....Respondent  
Ward-47(2), Kolkata,  
3, Government Place (West),  
Kolkata-700001**

**Appearances by:**

*Shri Miraz D. Shah, A.R., appeared on behalf of the  
assessee*

*Shri Susanta Saha, Addl. CIT, Sr. D.R., appeared on  
behalf of the Revenue*

**Date of concluding the hearing: June 25, 2025**

**Date of pronouncing the order: June 26, 2025**

**ORDER**

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 15<sup>th</sup> July 2024 passed for Assessment Year 2019-20.

2. The appeal is time barred by 109 days in filing the appeal by the assessee. However, the assessee filed a condonation petition

dated 16<sup>th</sup> January, 2025 along with affidavit saying that he has been suffering from severe cardiological and respiratory ailments for the past one and half years or even more. The ailment with medical certificate enclosed was to the extent whereby it was not able to carry out his business activities and litigations by itself. Consequently, he had to rely completely on its consultant in relation to matters such as litigations and proceedings in the appropriate forum. The assessee was not aware of any notices of hearing and the order passed by the Id. CIT(Appeals). When the assessee came to know about the order passed by the Id. CIT(Appeals), the assessee approached the Id. A.R. to prefer an appeal, due to that there was a delay of 109 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay.

3. Considering the facts and circumstances of the case, I am of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, I am inclined to condone the delay of 109 days. Hence the delay is condoned.

4. The contention of the Id. Counsel for the assessee is that the Id. CIT(Appeals) dismissed the appeal of the assessee ex-parte without going into the merit of the case. He further submitted that the assessee was not aware of the date of hearing before the Id. CIT(Appeals). Therefore, the assessee was not in a position to appear before the Id. CIT(Appeals).

5. On the other hand, ld. Departmental Representative submitted that sufficient opportunity was being provided to the assessee but the assessee failed to appear before the ld. CIT(Appeals). 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).

6. I have heard both the sides and perused the material available on record. The ld. Counsel for the assessee filed an affidavit mentioning the reasons for delay in filing the appeal before the ITAT. 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. Therefore, I remit the matter back to the file of ld. CIT(Appeals) with a direction to dispose of the appeal without any inference on the observations of earlier order passed by him. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits of the case, based on the materials available on the record. Thus, the grounds raised by the assessee in the appeal are allowed for statistical purposes.

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

Order pronounced in the open Court on 26/06/2025.

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

***Kolkata, the 26<sup>th</sup> day of June, 2025***

- Copies to :*(1) *Radheshyam Sahu,*  
*17, Belilious Road,*  
*Near Vikram Vidyalaya Branch,*  
*Howrah-711101, West Bengal*
- (2) *Income Tax Officer,*  
*Ward-47(2), Kolkata,*  
*3, Government Place (West),*  
*Kolkata-700001*
- (3) *CIT(A), NFAC, Delhi;*  
(4) *CIT - , Kolkata;*  
(5) *The Departmental Representative;*  
(6) *Guard File*

*TRUE COPY*

*By order*

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

***Laha/Sr. P.S.***