

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-PATNA 'e-COURT', KOLKATA
[Hybrid Court Hearing]**

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

**I.T.A. No. 195/PAT/2025
Assessment Year: 2017-2018**

***Mithilesh Kumar Aakela,.....Appellant
S/o Mahendra Singh Pouthu,
Aurangabad-824101, Bihar
[PAN:ATEPA0896R]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-3(3), Aurangabad,
2nd Floor, R.J. Palace, Raikashinath More,
Gaya-823001, Bihar***

Appearances by:

*Shri Manish Rastogi, Advocate, appeared on behalf of the
assessee*

*Shri Ashwani Kr. Singal, JCIT, appeared on behalf of
the Revenue*

Date of concluding the hearing: June 23, 2025

Date of pronouncing the order: July 22, 2025

O R D E R

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 11th November 2024 passed for Assessment Year 2017-18.

2. The appeal is time barred by 82 days in filing the appeal by the assessee before the Tribunal. However, the assessee filed a condonation petition before the ITAT in support of condonation of delay of 82 days mentioning that 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 82 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 82 days. Hence the delay is condoned.

4. Brief facts of the case are that the assessee is an individual and engaged in the trading business of cement. The assessee did not file the return of income for the year under consideration. During the course of demonetization, he deposited Rs.10,30,000/- as cash into his bank account. Since the assessee did not file his income tax return, a notice under section 142(1) was issued as per SOP in respect of data of cash deposit in Bank pushed by the Directorate of Systems under 'Operation Clean Money' for filing the ITR for the year under consideration till 31.03.2018. But the assessee failed to file the return within stipulated time. It was found that the assessee deliberately chose not to file return under consideration. Accordingly notice under section 148 of the Act was

issued and the assessee filed his return of income for the AY 2018-19 where he declared total income at Rs.2,92,832/- and sales turnover at Rs.45,36,732/-. After that, notice under section 142(1) of the Act was issued to the assessee along with questionnaire and was required to upload his reply on or before 4.2.2019 but the assessee did not respond to the notice. Thereafter notice under section 143(2) was issued for compliance but the assessee did not file his return of income. Since the assessee has not complied with all the notices/letter of the Income Tax Department, the ld. Assessing Officer had no other option, but to proceed and complete the assessment as per section 144 of the Income Tax Act. Finally, ld. Assessing Officer assessed the total taxable income of the assessee at Rs.15,39,160/- under section 144/147 of the Income Tax Act. Being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

5. The contention of the ld. Counsel for the assessee is that the ld. CIT(Appeals) dismissed the appeal of the assessee without going into the merit of the case. He simply upheld the order of ld. Assessing Officer as the assessee failed to substantiate the grounds taken by him with supporting documents. Therefore, ld. Counsel pleaded to set aside the order of ld. CIT(Appeals).

6. 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 Id. CIT(Appeals).

7. I have heard both the sides and perused the material available on record. The Id. Counsel for the assessee filed a condonation petition 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 Id. CIT(Appeals) with a direction to dispose of the appeal without any inference on the observations of earlier order passed by him and to decide afresh on merit. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Id. 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.

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

Order pronounced in the open Court on 22/07/2025.

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

Kolkata, the 22nd day of July, 2025

*Copies to :(1) Mithilesh Kumar Aakela,
S/o Mahendra Singh Pouthu,
Aurangabad-824101, Bihar*

*(2) Income Tax Officer,
Ward-3(3), Aurangabad,
2nd Floor, R.J. Palace, Raikashinath More,
Gaya-823001, Bihar*

(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.