

**IN THE INCOME TAX APPELLATE TRIBUNAL
ALLAHABAD BENCH "SMC", ALLAHABAD**

**BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER
AND
SHRI SUBHASH MALGURIA, JUDICIAL MEMBER**

I.T.A. No.28/Alld/2025
Assessment year:2021-22

Rakesh Kumar Srivastava 517, Baghambari Gaddi, Allahabad PAN:AIKPS8398D (Appellant)	Vs.	The Assistant Director of Income Tax, CPC, Bengaluru. (Respondent)
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Appellant by	Shri Shubham Rastogi, C.A.
Respondent by	Shri A. K. Singh, Sr. D.R.

ORDER

PER SUBHASH MALGURIA:J.M.

This appeal vide I.T.A. No.28/Alld/2025 has been filed by the assessee for assessment year 2021-22 against impugned appellate order dated 03/12/2024 (DIN & Order No.ITBA/APL/S/250/2024-25/1070827896(1) of Commissioner of Income Tax (Appeals) ["CIT(A)" for short].

2. In this case intimation order under section 143(1) of the Income Tax Act, 1961 ("the Act") for short, dated 22/03/2022 was passed by CPC, Bangaluru raising a demand of Rs.3,14,270/- vide demand reference No.2021202137053054511T. Being aggrieved, the assessee went in appeal before the learned CIT(A). Vide impugned appellate order dated 03/12/2024, the assessee's appeal was dismissed by the learned CIT(A). The learned CIT(A) did not decide the assessee's appeal on merits. The assessee's appeal was dismissed by learned CIT(A) on grounds of limitation. The assessee had requested for condonation of delay, however, the request of the assessee for condonation of delay was not considered favourably by the learned CIT(A) and the assessee's appeal was dismissed treating the same as inadmissible on grounds of limitation. Aggrieved, the assessee has filed the present appeal in Income Tax Appellate Tribunal raising the following grounds:

"1. That Ld. Addl./JCIT (A)-2, NFAC, Chennai erred on facts and in law in dismissing the appeal solely on the reason of delay in filing of appeal, without appreciating that the delay was due to medical reason being operation of Kidney stone, diabetic problem, Protest problem he was not aware of passing of order by Ld. CPC send on e-profile because of these medical reasons. Thus there was a reasonable cause for delayed filing of appeal.

2. That Ld. Addl./JCIT (A)-2, NFAC, Chennai did not appreciate that Assessee is a Senior Citizen and was under the severe operation and suffering from medical problem and there is no other person to look after the Assessee.

3. That Ld. C. P. C. failed to appreciate that the Employer Canara Bank, had issued incorrect Form No. 16 stating Gross Salary at Rs.49,03,936/- on the basis of that Certificate, return was filed by the Assessee. However, later on Canara Bank issued corrected Form No.

16 stating Correct Salary of Rs.44,84,584/-. Thus, the Order u/s 143(1) of I. T. Act, incorrect Income has been assessed.

4. That correct exemption u/s 10(10AA) of I. T. Act towards Leave Encashment of Rs.3,00,000/- should be considered instead of incorrect amount of Rs.11,85,341/- shown in the Return u/s 139(1) of I. T. Act only on the wrong advice of Local CA of Allahabad.

5. That the Revised Return to rectify the mistakes could not be filed as the time limit was expired due to this reason Correct Computation of Income is enclosed and the same may kindly be considered instead of Income determined u/s 143(1) of I. T. Act by Id. C. P. C.

6. The Ld. CPC / Jurisdictional A.O. failed to appreciate that there was a reasonable cause being incorrect Salary Computed by Employer, Canara Bank Regional Office Agra which was later on corrected by providing corrected Form 16 which was also corrected in Form No. 26AS and in TIS and AIS accordingly.

7. The addition made is highly excessive, contrary to the facts, law and principle of natural justice and providing sufficient time and opportunity to have its say on the reasons relied upon by Ld. A.O.”

3. We have heard the rival parties and have gone through the material placed on record. On perusal of records, we find that the assessee had provided detailed medical papers and medical history of the assessee, in support of the assessee's request for condonation of delay in filing of appeal before the learned CIT(A). It was further pleaded by the assessee that the assessee was suffering from severe disease. In view of the foregoing, we are satisfied within the meaning of section 249(3), that the assessee had sufficient cause for not presenting the appeal in the office of the learned CIT(A) within prescribed time limit. Accordingly, it is held that this was a fit case for the learned CIT(A) to condone the delay in filing the appeal in his office and to admit the appeal.

4. In view of the foregoing, we set aside the impugned appellate order dated 03/12/2024 of the learned CIT(A) and we restore the matter back to the file of the learned CIT(A) with the direction to condone the delay in filing the appeal in his office and to pass de novo order on merits in accordance with law after providing reasonable opportunity to the assessee.

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

(Order pronounced in the open court on 23/07/2025)

Sd/.
(ANADEE NATH MISSHRA)
Accountant Member

Sd/.
(SUBHASH MALGURIA)
Judicial Member

Dated:23/07/2025
*Singh

Copy of the order forwarded to :

1. The Appellant
2. The Respondent.
3. Concerned CIT
4. D.R., I.T.A.T., Allahabad