

आयकर अपीलीय अधिकरण
पटना पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH AT KOLKATA**

[वर्चुअल कोर्ट]
[Virtual Court]

श्री संजय शर्मा, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 642/PAT/2024
Assessment Year: 2012-13**

Mani Bhushan Kumar	Vs.	NFAC, Delhi
(Appellant)		(Respondent)
PAN: AVBPK7423P		

Appearances:

Assessee represented by : None.

Department represented by : Ashwani Kumar, Sr. DR.

Date of concluding the hearing : 15-July-2025

Date of pronouncing the order : 24-July-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2012-13 dated 16.07.2024, which has been passed against the assessment order u/s 144/147 of the Act, dated 06.12.2019. None appeared on behalf of the assessee and the appeal was heard with the assistance of the Ld. DR.



1.1. The Registry has informed that the appeal filed by the assessee is barred by limitation by 58 days. An application along with the affidavit seeking condonation of delay has been filed by the assessee stating as under:

“The NFAC has passed order u/s 250 dated 16/07/2024. There was no communication of uploading of this order either on the registered email or registered mobile no. of the appellant. It has only recently that the appellant came to know about the impugned order of NFAC in the first week of October, 2024 when he logged in the web site of income tax web portal and hence the appellant approached his consultant namely Mr. Sudhir Kumar, Patna who has retrieved the impugned order from the e-portal under the drop box 'For your Information' (copy of e-proceeding obtained from the e-portal is attached). Normally, the orders and/or the demand are uploaded on the drop box "For your Action" followed by e-mail or message on registered mobile number. It appears that since the impugned order has been uploaded on drop box "For your Information" and, therefore, there was no communication through email or message on registered mobile number. The petitioner is filing this appeal which can be said to be a belated appeal, if limitation is counted from the date of its order. However, it is stated that the impugned order came to the knowledge of the petitioner recently in the first week of October, 2024 and therefore, according to the petitioner, the present appeal is not a belated appeal.

However, without entering into controversy, it is respectfully submitted that delay, if any, may kindly be condoned and the appeal may kindly be heard on merits.”

1.2. In the affidavit filed by the assessee for condonation of delay, the assessee has stated that there was no communication of uploading of the appeal order dated 16.07.2024 either on the registered email or registered mobile number of the assessee and it was only recently in the first week of October, 2024 when the assessee logged on the income tax web portal and approached the CS who had retrieved the impugned order from the e-portal under the drop box 'For your information' and thereafter the appeal could be filed.

1.3. Considering the application for condonation of delay and the reasons stated therein, we are satisfied that the assessee had a

reasonable and sufficient cause and was prevented from filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“1. For that the Ld. CIT(A) has erred in dismissing the appeal and upholding the order passed by the A.O.

2. For that the Ld. CIT(A) has erred in passing order which is in violation of principles of natural justice, fairness and equity.

3. For that the Ld. CIT(A) has erred in upholding the assessment order without affording proper and adjudicate opportunity of hearing to the appellant.

4. For that the Ld. CIT(A) has erred in not providing the opportunity of personal hearing to the appellant

5. For that the Ld. CIT(A) has erred in upholding the order passed by the A.O. u/s 144 read with section 147 when there is no failure on part of the appellant to disclose the material facts and particulars of the case.

6. For that the learned Commissioner of Income-tax (Appeals) has erred in not considering the fact that the reasons recorded by Assessing Officer has been erroneous and the assessment order passed is illegal, void ab initio and is fit to be quashed/annulled.

7. For that the learned Commissioner of Income-tax (Appeals) has erred in not considering the fact that approval / sanction by the competent authority is mechanical and without application of mind.

8. For that the learned Commissioner of Income-tax (Appeals) has erred in confirming the addition of Rs 1700,000/- on account of unsecured loans.

9. For that the learned Commissioner of Income-tax (Appeals) has erred in confirming the addition of Rs 1700,000/- without considering the written submissions and evidences furnished by the appellant in first appeal proceedings.

10. For that the sustenance of addition of Rs 1700,000 is wrong, illegal and unjustified on the facts and in the circumstances of the appellant's case.

11. For that the order passed by the Ld. CIT(A) is wrong, illegal and unjustified in the facts and circumstances of the appellant's case.



12. For that the whole order is bad in fact and law of the case and is fit to be set aside.

13. For that the appellant reserves its right to furnish detailed written submission along with documents and evidences on or before Date of hearing.

14. For that the appellant may be given opportunity of personal hearing physically/virtually at the time of hearing of the appeal.

15. For that the other grounds, if any, shall be urged at the time of hearing of the appeal.”

3. Brief facts of the case are that the assessee had filed the return of income showing total income of ₹8,54,800/-. The assessee had received fresh unsecured loan amounting to ₹17.90 Lakh and the assessment was reopened u/s 147 of the Act. Statutory notices were issued but since no compliance was made nor any evidence filed in support of unsecured loan as shown in the ITR, the loans which were received during the year amounting to ₹17.90 Lakh were added u/s 68 of the Act and the total income assessed at ₹ 26,44,830/-. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A). During the course of appellate proceeding, the assessee filed written submission, however, the Ld. CIT(A) held that the assessee failed to discharge the burden of proof by not establishing the genuineness of the source of such unsecured loans and therefore, the addition made by the Assessing Officer (hereinafter referred to as Ld. 'AO') amounting to ₹17.90 Lakh as unexplained cash credit u/s 68 of the Act was confirmed and the appeal was dismissed.

4. Before us, the assessee sought adjournment but none appeared and as no valid justification for the adjournment sought was made the adjournment was rejected and the appeal was with the assistance of the Ld. DR. The Ld. DR submitted that the assessee had not filed any evidence for the loans raised during the year. However, the Bench



perused the grounds of appeal and in Ground nos. 3 and 4 the assessee has contended that the Ld. CIT(A) erred in not providing the opportunity of personal hearing to the assessee and was of the view that another opportunity should be provided in the interest of justice and fairplay.

5. We have considered the submission made by the Ld. DR and gone through facts of the case. The Ld. CIT(A) has reproduced the written submission filed by the assessee but has not given any detailed reason as to why the *ex parte* order of the Ld. AO ought to have been confirmed and the assessee submissions should be rejected. Therefore, in the interest of justice and fair play, it was considered imperative that the assessee may be granted another opportunity to present his case before the Ld. CIT(A). We, therefore, set aside the order of the Ld. CIT(A) and remit the appeal to him to be decided afresh, who shall allow an opportunity of being heard to the assessee and also grant an opportunity of representing the case and be heard to the Ld. AO as per rule 46A of the Income Tax Rules, 1962, if required, and thereby pass an order in accordance with law. For statistical purposes, the appeal of the assessee is allowed.

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

Order pronounced in the open Court on 24th July, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 24.07.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Mani Bhushan Kumar, Kamakhya Path, West Patel Nagar, Patna, Bihar, 800023.**
2. **NFAC, Delhi.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Bench, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata