

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, NAGPUR

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

ITA no.369/Nag./2025
(Assessment Year : 2018-19)

Suvarna Shrikant Deshmukh
Near Ram Mandir, Karanja Chowk Appellant
Buldhana, 443 001 PAN-ADWPS6605C

v/s

Income Tax Officer
Ward-2, Nagpur Respondent

Assessee by : Shri Shwetanshu Dev, Ld. Adv
(Amicus Curiae)

Revenue by : Shri Surjit Kumar Saha, Ld. DR

Date of Hearing – 27/06/2025

Date of Order – 27/06/2025

ORDER

The present appeal has been filed by the assessee challenging the impugned order dated 17/04/2025, passed by the First Appellate Authority, National Faceless Appeal Centre, Delhi, for the assessment year 2018-19.

2. As the outset, this Court observe that there was a delay of 429 days in filing first appeal before the learned Commissioner, challenging the assessment order dated 03/01/2024, passed under section 147 r/w section 144 r/w section 144B of the Income Tax Act, 1961 (for short "*the Act*").

3. The assessee, before the learned Commissioner, claimed as under:-

"The appellant is from a small town and does not know the provisions of the Income Tax Act 1961 and therefore appointed a counsel to file such things. The appellant was unaware of the notices and orders issued earlier because the earlier counsel was handling all the matters of the appellant but the earlier counsel did not respond to the notices and orders. Therefore the appellant decided to change the counsel and the new counsel was duly appointed and all the matters are communicated to the new counsel. So your honor kindly consider the condonation of delay in filing the appeal due to the above mentioned reason. Please do the needful."

4. Though, the learned Commissioner considered the aforesaid reasons stated by the assessee for condonation of delay, but by considering the peculiar facts and circumstances and mainly on the reason that the assessee has not even bothered to file a duly sworn affidavit or anything from the side of the C.A., to confirm the above fact, ultimately dismissed the assessee's appeal in limine, by not admitting the same for adjudication and by declining to condone the delay.

5. The learned Amicus Curiae, has claimed that before the Assessing Officer, the assessee has submitted all the relevant details and, therefore, the addition of Rs.19,34,240, on account of variation in cash deposit is unsustainable.

6. This Court has given thoughtful consideration to the peculiar facts and circumstances of the case. Though, the assessee had filed some of

the details, however, it is a fact, as it clearly appears from the assessment order that the assessee in response to various statutory notices, eventually made no compliance, which resulted into almost the assessment order as ex-parte and making the aforesaid addition. Whatever it may be, as the learned Commissioner has not condoned the delay and dismissed the appeal of the assessee in limine, as observed above, mainly on the reasons that the assessee has not bothered to file Affidavit and nothing from the side of the C.A. to confirm the above facts, this Court deem it appropriate to afford one more opportunity to the assessee to substantiate its case qua condonation of delay by producing the relevant affidavit and document(s) as desired by the learned Commissioner. Suffice to say, the learned Commissioner shall provide reasonable opportunity of being heard to the assessee. Thus the case is remanded to the file of Ld. Commissioner accordingly.

7. The assessee is also directed to file relevant submissions/documents. It is clarified that, in case of subsequent default, the assessee shall not be entitled for any leniency.

8. This Court appreciate and endorse the sincere efforts and able assistance provided by the learned Amicus Curiae in coming to the right conclusion and for passing the order in its right perspective and proper manner and for substantial justice.

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

Order pronounced in the open Court on 27/06/2025

Sd/-
N.K. CHOUDHRY
JUDICIAL MEMBER

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Nagpur; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

By Order

Sr. Private Secretary
ITAT, Nagpur