

IN THE INCOME TAX APPELLATE TRIBUNAL 'PATNA' BENCH, PATNA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No.130/PAT/2025
(Assessment Year: 2011-12)**

KB Technic Private Limited
3-A, Singeshwar Place,
East Boring Canal Road,
Patna-800001, Bihar

(Appellant)

PAN No. AAACK9200F

DC/ACIT, Circle-2
Patna-800001

Vs.

(Respondent)

Assessee by : Shri A.K. Rastogi, AR
Revenue by : Shri Ashwani Kr. Singal, DR

Date of hearing: 10.07.2025
Date of pronouncement: 29.07.2025

ORDER

Per Rajesh Kumar, AM:

This appeal preferred by the assessee against the order of the Commissioner of Income Tax, Appeal (hereinafter referred to as the "Ld. CIT(A)") dated 27.09.2023 for the AY 2011-12.

02. It appears from the report of the registry that the appeal has been filed after a delay of 474 days for which the assessee has filed condonation petition., which are as follows-

*"To.
The Income Tax Appellate Tribunal,
Patna Bench, Patna.*

Reference:

KB Technic Private Ltd., 3-A. Singeshwar Palace, East Boring Canal Road, Patna 800 001. Bihar (PAN: AAACK9200F) for A.Y.2011-12.

Subject: Petition for condonation of delay in filing appeal.

Reference: Order of CIT(A), NFAC dated 27/09/2023.

Sir,

The Ld. CIT(A) has passed order in Appeal No.CIT(A), Patna-1/10482/2018-19 on 27/09/2023. It is stated that on 19/02/2025, an order u/s 271(1)(c) for A.Y.2011-12, was uploaded on the e-portal of the assessee under the tab 'For your action' that the petitioner came to know about the impugned order of CIT(A) dated 27/09/2023. Thereafter, on browsing of e-portal the appellant has found the impugned order dismissing the appeal on 27/09/2023 under the tab 'For Your Information' whereas normally the orders are uploaded under the tab 'For your action'. There was no communication of uploading of this order either on the registered email or registered mobile no. Thus, the appellant came to know about the adverse order of Ld. CIT(A) only on 19/02/2025. Accordingly, the appellant 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 appellant on 19/02/2025 and therefore, according to the appellant, 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."

03. On perusal of the condonation petition, the reasons for delay in filing the appeal seem to be genuine and bonafide. The Ld. D.R did not raise any objection for condoning the delay. Keeping in view, the condonation petition as well as judicial pronouncements that the case should be decided on merit and justice should not be denied on technicalities, the delay is hereby condoned.
04. At the outset, the Id. Counsel for the assessee submitted before the Bench that the orders of Id. CIT (A) as well as Id. AO are ex-parte order and is liable to set aside. The Id. Counsel for the assessee submitted before the Bench that the orders passed by the Ld. CIT(A) u/s. 250 of the Act was without providing sufficient opportunity to the assessee and as such the order is bereft of natural justice and is liable to be set aside.
05. On the other hand, the learned Departmental Representative did not object to such prayer made by the assessee before the Bench.
06. We after hearing the submission of the parties and perusing the material available on record, we find that instant impugned order

passed by NFAC was dismissed without looking into the merits of the case by simply dismissing the appeal of the assessee in limine by not considering the reply uploaded by the assessee on the portal. In our opinion, the order passed by the Id. CIT (A) is in violation of Provision of Section 250(6) of the Act. Sub-section (6) of section 250 of the Income Tax Act, 1961, mandates the Id. CIT(A) to state the point in dispute, and thereafter record reasons in support of his conclusion. A perusal of the order of the Id. CIT(A) would indicate that it is not in consonance with the mandate given in the Act. The Id. CIT(A) has not made any analysis of facts available on record, including the assessment records and has passed an ex-parte order. Therefore, the impugned order is not sustainable, it deserves to be set aside. We therefore, deem it necessary and in the larger interest of justice and fair play, deem it appropriate to restore the issue to the file of the Id. AO for necessary adjudication for which reasonable opportunity to be provided to the assessee to furnish the reply and file relevant details and evidences if needed. It is further clarified that assessee should also not seek any adjournments unless otherwise required for reasonable cause. The appeal of the assessee is allowed for statistical purposes.

07. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 29.07.2025.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 29.07.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

True Copy//

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Patna