

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH 'SMC' AGRA**

(Through Physical/Virtual Hearing)

**BEFORE SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.287/Agr/2025
[Assessment Year: 2011-12]**

Rahul Gupta, H. NO.11A, Kala Kunj Maruti Estate, Agra, Uttar Pradesh-282007	Vs	ITO, Ward-2(1)(1), Aayakar Bhawan, Sanjay Place, Agra, Uttar Pradesh-282002
PAN-BSKPK2217E		
Appellant		Respondent

Appellant by	Shri Prarthana Jalan, CA
Respondent by	Shri Anil Kumar Sr. DR

Date of Hearing	17.07.2025
Date of Pronouncement	29.07.2025

ORDER,

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against an order dated 31.01.2024 of the National Faceless Appeal Centre, Delhi/Ld. CIT(A), relating to Assessment Year 2011-12 arising out of order u/s 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 01.11.2018

2. This appeal is delay of 407 days in filing the appeal before us. In this regard, the assessee has filed a condonation application for condoning the delay, which is reproduced as below:-

“MOST RESPECTFULLY SHOWETH:

1. *The Appellant, Rahul Gupta is filing the present appeal against the order passed by the Commissioner of Income Tax (Appeals) under section 250 of the Income Tax Act, 1961, dated 31/01/2024.*

2. *As per the provisions of the Income Tax Act, the time limit for filing an appeal before this Hon'ble Tribunal is 2 months from the end of month in which the order appealed against is communicated to appellant. However, due to unavoidable and bona fide circumstances, the Appellant could not file the appeal within the prescribed time and is now filing the appeal with a delay of approx. 407 Days.*

3. *That the delay in filing the appeal was caused due to Genuine and Bona Fide reasons i.e. The Appellant was not aware of the order passed. The email id registered on the portal was not of the Appellant. So appellant did not had any access to electronic communications send by department on the respective mail id. It was only when the Appellant received a call from the department regarding payment of demand, that the Appellant became aware of passing of this order.*

4. *That as soon as the Appellant became aware of the passing of the order, immediate steps were taken to prepare and for filing the appeal without any further delay. That the delay in filing the appeal was neither deliberate nor due to negligence, but was caused due to circumstances beyond the control of the Appellant and the Appellant has not received any benefit from filing the appeal late.*

5. *The Hon'ble Tribunal has consistently followed a liberal approach in condoning delays where there is a reasonable cause. The Appellant relies on the principles laid down by the Hon'ble Supreme Court in Collector, Land Acquisition v. Mst. Katiji & Ors. [(1987) 167 ITR 471 (SC)], where it was held that substantial justice should prevail over technical considerations while considering condonation of delay.*

6. *In view of the above facts and circumstances, the Appellant humbly prays that the delay in filing the appeal may kindly be condoned in the interest of justice, and the appeal may be admitted for adjudication on merits”.*

3. We have carefully considered the facts stated in the said application. Upon consideration, we are of the considered view that the assessee was prevented by sufficient cause in filing the said appeal. We, therefore, condone the delay of 407 days and admit this appeal for hearing.

4. Brief facts of the case:- The Assessing Officer had information that the assessee had deposited cash of Rs.4 lakhs during Financial Year 2010-11 relevant to Assessment Year 2011-12 in saving bank A/c No.xxxx0109 maintained with ICICI Bank Ltd. During verification proceedings, it was found that total cash deposited was Rs. 5,76,520/- in cash in the aforesaid bank account. Since, there was no compliance by the Assessing Officer during

the verification proceedings, the Assessing Officer issued a notice u/s 148 of the Act, dated 27.03.2018. According to the Assessing Officer, the assessee did not comply to the notices issued during the assessment proceedings and in absence of any explanation furnished by the assessee regarding the source of the above cash deposit, the Assessing Officer completed assessment u/s 144/147 of the Act at a total income of Rs.5,76,520/-.

5. Against the above order, the assessee filed an appeal before the Id. CIT(A). The Ld. CIT(A) dismissed the appeal of the assessee ex-parte as according to him, the case was fixed for hearing on five occasions as per the details in para 4.1 of the appellate order. On merits, the Ld. CIT(A) observed that he does not have find any reason to differ the finding of the Assessing Officer since no attempt has been made by the assessee to discharge his onus by way of submitting necessary evidence about the nature and source of the cash deposit of Rs.5,76,520/-.

6. Aggrieved by the order of the Id. CIT(A), the assessee is in appeal before us.

7. At the time of hearing, the Id. Counsel for the assessee before us submitted that the Id. CIT(A) passed the order ex-parte without affording proper opportunity of hearing. It was further submitted that in the interest of justice, one more opportunity may be given to the assessee to explain the case before him.

8. The Id. DR supported the orders of the authorities below.

9. We have heard both the parties and perused the material available on record. We have noted as above that the Id. CIT(A) dismissed the appeal of the assessee ex-parte and we have also noted that the assessee has not received notice due to non-access of the e-mail. The e-mail registered on the portal was not of the assessee and it was only when the assessee received a call from the Department regarding the payment of demand the assessee came to know to know about the passing of the order by the Id. CIT(A) vide order dated 31.01.2024. Therefore, there was a valid reason for the non-appearance of the assessee before the Ld.

CIT(A). In view of these facts, we are of the considered view that one more opportunity may be granted to the assessee. Therefore, in the interest of justice, the order of the Ld. CIT(A) is set-aside and we restore the matter to his file for fresh adjudication on this issue as per law after giving reasonable opportunity of being heard to the assessee. Further, the assessee is also directed to appear before the Ld. CIT(A) during the course of hearing.

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

Order pronounced in the open court on 29th July, 2025.

Sd/-
[SUNIL KUMAR SINGH]
JUDICIAL MEMBER

Dated 29.07.2025.

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, Agra