

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

(Through Physical/Virtual Hearing)

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

**ITA No.271/Agr/2025
[Assessment Year: 2016-17]**

Mohd. Arif, 68, Huiganj Pachraha, Etawah, Etawah, Uttar Pradesh-206001	Vs	Income Tax Officer, Ward-2(2)(5), Income Tax Office, Civil Lines, Etawah, Uttar Pradesh-207001
PAN-ANAPA8542J		
Appellant		Respondent

Appellant by	Shri Sushil Maheshwari, CA
Respondent by	Shri Anil Kumar Sr. DR

Date of Hearing	16.07.2025
Date of Pronouncement	29.07.2025

ORDER,

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against an order dated 30.07.2024 of the National Faceless Appeal Centre, Delhi/Ld. CIT(A), relating to Assessment Year 2016-17 arising out of order u/s 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 16.03.2022. The assessee has filed an adjournment petition, which was rejected and the appeal is being decided after hearing both the parties and on the basis of materials available on record.

2. There is a delay of 231 days in filing of this appeal before us. The relevant extract of the condonation petition is reproduced as under:-

“The Applicant most respectfully beg, pray and humbly submits as under:-

Briefly stated, the facts of the case are that the Ld Commissioner of Income Tax (Appeals), NFAC, New Delhi passed an order under section 250 of the Act on 30.07.2024. The said order was uploaded on Income Tax Portal and was not served by any of the modes specified in section 282 of the Act.

Further, it is pertinent to mention here that the E-mail Id registered on the income tax portal was of the previous accountant of the Appellant who had already left, due to which the Order passed by the Ld CIT(A), NFAC, did not come to the notice of the Appellant.

On 07.05.2025, the Consultant of the Applicant, on login to Income Tax Portal came to know about order dated 30.07.2024 uploaded on the Portal. He advised the Applicant to file an appeal before the Hon'ble ITAT, Agra Bench, Agra.

Due to the reasons mentioned above, there occurred delay in filing of appeal before the Hon'ble ITAT, Agra Bench, Agra.”

2.1. We have carefully considered the facts stated in the said condonation petition. 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 231 days and admit this appeal for hearing.

3. Brief facts of the case:- The assessment was reopened in this case vide notice u/s 148 of the Act dated 26.03.2021 on the basis of an information that the assessee had sold an immovable property at a total consideration of Rs.49,20,000/- (as against the stamp value of Rs.49,20,000/-) and subsequently purchased another property at a total consideration of Rs.15,00,000/- (as against the stamp value of Rs.1,12,14,000/-) during the F.Y. 2015-16 relevant to the AY 2016-17. The Assessing Officer issued a show cause notice to the assessee

proposing the tax of the entire sale receipts of Rs.49,20,000/- as capital gain by taking the cost of acquisition at Rs. NIL on the ground that the assessee had not disclosed this transaction in his return of income u/s 139(1) of the Act. The Assessing Officer also show-caused to make another addition of Rs.97,14,000/- by invoking the provisions of section 56(2)(vii)(b) on the ground that the stamp value of the property shown to have been purchased for Rs.15 lakhs on the date of purchase was Rs.1,12,14,000/-. The assessee submitted his reply and that was not found to be acceptable by the Assessing Officer and he made the above additions.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the appeal of the assessee ex-parte. According to the Ld. CIT(A), the assessee did not appear or filed any response to the notice of hearing dated 09.11.2022, 29.12.2023, 11.03.2024, 06.06.2024, 21.06.2024 and 05.07.2024 respectively.

5. Aggrieved with the said order, the assessee is in appeal before us.

6. The ld. AR for the assessee drawing attention to the grounds no.7 and 9 of appeal and submitted that the assessee's shares was only 1/3rd in both property purchased as well as sold. It was further submitted that the assessee was also entitled for deduction of Rs.7,65,968/- being the indexed cost of acquisition and Rs.5,000/- being amount of transfer expenses and further an amount of Rs.7,71,787/- u/s 54 of the Act being investment in new house. The Ld. AR further submitted that since the appeal was decided ex-parte, one more

opportunity may be granted to the assessee to explain the above facts before the Ld. CIT(A)

7. The ld. DR supported the orders of the authorities below.

8. We have heard both the parties and perused the material available on record. The Ld. CIT(A) dismissed the appeal of the assessee ex-parte but did not adjudicate the same on merits regarding his claim of having only 1/3rd shares in the property both sold and purchased and deduction of Rs.7,65,968/- being the indexed cost of acquisition and Rs.5,000/- being amount of transfer expenses and further an amount of Rs.7,71,787/- u/s 54 of the Act, which was also filed in grounds of appeal before him, which was not adjudicated by him. Therefore, for allowing one more opportunity to the assessee to submit these facts before the Ld. CIT(A), we deem it fit to set-aside the order of the Ld. CIT(A) and 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.

9. 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 .07.2025.

Shekhar

Copy forwarded to:

1. Appellant

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

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

Asst. Registrar,
ITAT, Agra