

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 134/Asr/2025
Assessment Years: 2014-15

Abdul Hamid Nachar,
H. No. 61 Green Lane,
Azad Basti, Natipora
Jammu & Kashmir

[PAN: AUAPN 7161M]
(Appellant)

Vs.

Income Tax Officer,
Ward 1, Srinagar

(Respondent)

Appellant by : Sh. Tasir Ul Islam & Sh. Zubair Khan, Advs.
Respondent by : Sh. Charan Dass, Sr. D. R.
Date of Hearing : 17.07.2025
Date of Pronouncement : 31.07.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the Id. CIT(A) NFAC, Delhi dated 22.11.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, Ward-1, Srinagar passed u/s 147 r.w.s. 144 of the Act, dated 18.05.2023.

3. **Condonation of delay:** It is pointed out by the registry that the appeal is filed belatedly *by 24 (twenty four) days*. An application for condonation of delay has been filed by the assessee, the order of the Id. CIT(A) has been received on 22.11.2024 and the appeal in this case has been filed before the Tribunal on 14.02.2025 which is barred by 24 (twenty four) days.
4. The assessee has filed an application for condonation of delay explaining the delay to be on account of medical treatment of his family member (*Mrs. Saleema Begum*) and has filed supporting medical documents from Government S.M.H.S. Hospital, Srinagar, Jammu & Kashmir for the period of October and November, 2024.
5. As such, he prayed that the delay in filing the appeal was not intentional and the appeal has been filed belatedly by 24 days due to circumstances beyond his control and as such, he prayed for condonation of delay and for admission of appeal for deciding on merits.
6. The Id. DR has no objection, considering the medical issues involved. We are also of the opinion that there is no willful default on the part of the assessee as such we condone the delay and admit the appeal for hearing on merits.
7. The assessee has taken 8 (eight) grounds of appeal in the memorandum of appeal in form no. 36 and all the grounds relates to the issue that the proper

opportunity of hearing has not been granted by the ld. first appellate authority and the appeal has been dismissed, without the delay of 257 (two hundred fifty seven) days in filing the appeal before the first appellate authority being condoned. In course of hearing, the ld. AR of the assessee submitted that the appeal before the first appellate authority has been belatedly filed by 257 (*two hundred fifty seven*) days because the appellate order has not been issued through e-mail, because the assessee does not have own any registered of his own mail, and the mail that existed in the portal of the assessee belongs to the agent who helped the assessee to obtain the PAN card and the assessment order was served by the postal department on some unidentified person at an unidentified place.

8. Subsequently, on gathering information from the department regarding the existence of the assessment order, a counsel has been appointed and with the help of newly appointed counsel, the appeal was filed before the first appellate authority which was belated by 257 days. He further submitted that apart from above, the family member of the assessee was seriously ill and had to undergo prolonged medical treatment which are evident from hospital and diagnostic records copy of which are filed before the Tribunal.

9. He stated that during the course of appellate proceedings before the first appellate authority no opportunity of hearing was allowed to explain the delay which

the assessee submits could have been easily explained to the satisfaction of the Id. first appellate authority but no opportunity of explaining the delay was allowed before dismissing the appeal.

10. The Id. DR submitted that no proper reasons have been forwarded by the assessee as to why the huge delay of 257 days in filing of appeal before the Id. first appellate authority has arisen, except simply stating that the order has been served on unidentified person and relying on some medical documents of family members.

11. As such, he prayed that the issue of delay of 257 days should be properly explained before the Id. first appellate authority before proceeding on merits.

12. We have heard the rival submission and considered the materials on record and we find that the Id. first appellate authority has dismissed the appeal *in limine* without admitting the appeal for adjudication, because of delay without condoning the same. However, we feel that the Id. CIT(A) should have given an opportunity to the assessee to explain the reasons for the delay, and thereafter the decision should have been taken whether to admit the appeal for hearing on merits or not. However, the medical certificates filed before us should have been filed before the first appellate authority.

13. Since, in this case, no opportunity was allowed to the assessee to put forth his submission regarding the cause of delay in filing of this appeal which is belated by

257 days before the first appellate authority, we are of the opinion that interest of justice will be served if the matter is remanded back to the files of the Id. CIT(A) with a direction to grant necessary opportunity to the assessee to explain the delay satisfactorily before proceeding on the merits of the case.

14. As such, we remand the matter back to the files of the Id. CIT(A) with above directions and we also direct the assessee to furnish proper documents and explanations to explain the delay of *257 days* before the Id. CIT(A) and after satisfactory explanations of the same, the appeal may be admitted to be decided on merits on the grounds contained in Form No. 35.

15. We have not expressed any opinion on the reasons of the delay.

16. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 31.07.2025.

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned

(4) The Sr. DR, I.T.A.T

True Copy
By Order