

**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.289/Agr/2025
[Assessment Year: 2017-18]**

Adarsh Singh Kushwah, Tansen Nagar, Hazira, Gwalior, Madhya Pradesh-474002	Vs	Deputy Commissioner of Income Tax, Circle-3(1), Aaykar Bhawan, City Centre, Gwalior, Madhya Pradesh-474011
PAN-AJVPK5450E		
Appellant		Respondent

Appellant by	Shri Ashok Vijaywargia, CA
Respondent by	Shri Anil Kumar Sr. DR

Date of Hearing	17.07.2025
Date of Pronouncement	06.08.2025

ORDER,

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against an order dated 13.01.2025 of the National Faceless Appeal Centre, Delhi/Ld. CIT(A), relating to Assessment Year 2017-18 arising out of order u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred to 'the Act') dated 29.12.2019.

2. There is a delay of 74 days in filing this appeal before us. In this regard, the assessee has filed a condonation application and also an affidavit for condoning the delay. The relevant extract of the condonation application is reproduced as below:-

“MAY IT PLEASE YOUR HONOUR,

1. That, the assessee is an individual having income from salary, house property, business and other sources and had also submitted his return of income declaring total income of Rs. 27,64,450/-

2. That, the order was passed by the Ld. Commissioner of Income Tax (Appeals)13.01.2025.

3. That, I decided to file the appeal before the Hon'ble Income Tax Appellate Tribunal and appeal was to be filed on or before 12.03.2025. A challan of Rs. 10,000/- being necessary appeal filing fee was also deposited within time on 17.01.2025 and papers were handed over to the staff of the authorized representative for filing the appeal. But, due to pressure of work and time barring assessment cases the paper were filed in wrong folder by the staff and out of sight and out of mind. Now papers are found and appeal is being filed. Therefore, there is no delay in filing the appeal attributable to the appellant. If the delay is to be considered then, the delay comes to of 74 days, but, such delay is attributed to the office of the authorized representative, which is a reasonable cause for delay in filing the appeal, which may kindly be condoned and oblige.

4. Therefore, there is delay in filing the appeal for a reasonable cause, which may kindly be condoned

Therefore, it is requested that the delay in filing the appeal in time may kindly be condoned in view of provision of section 253(5) of the Income Tax Act, 1961 and may kindly be admitted and oblige.

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 this appeal. We, therefore, condone the delay of 74 days and admit this appeal for hearing.

4. Brief facts of the case:- This case was selected for limited scrutiny under CASS for the reason 'cash deposit during the demonetization period'. As per information on record with the Assessing Officer, the assessee had deposited Rs.34,90,000/- in his bank account during the demonetization period. According to the Assessing Officer, on the date fixed for compliance for the hearing notice dated 24.12.2019, there was no compliance by the assessee. Accordingly, the Assessing Officer completed the assessment and added a sum of Rs.34,90,000/- u/s 69A r.w.s. 115BBE of the Act.

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 eights occasions, where only requests for adjournments were filed. Further, the Id. CIT(A) noted that the assessee opted not to respond to the notices issued to the

assessee nor any documents were filed in support of his grounds of appeal to rebut the findings of the assessment order. The Id. CIT(A) also observed on merit that in absence of any evidence to rebut the assessment order, there was no reason to interfere with the addition made by the Assessing Officer.

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 as it is the case of the assessee in ground no.1 of the appeal that the bank account in which the cash was deposited did not belong to the assessee but to Agro Growth and Warehousing Pvt. Ltd.

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 that the Id. CIT(A) dismissed the appeal of the assessee ex-parte. Further, the assessee in his ground of appeal as referred above submits that the bank account in which the cash was deposited did not belong to the assessee but to Agro Growth and Warehousing Pvt. Ltd. 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 06th August, 2025.

Sd/-
[SUNIL KUMAR SINGH]
JUDICIAL MEMBER
Dated 06.08.2025.

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Shekhar

Copy forwarded to:

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

Asst. Registrar,
ITAT, Agra