

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
[DELHI BENCH : "DEHRADUN"/ NEW DELHI]
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

I.T.A. No. 08/DDN/2024 (A.Y 2015-16)

Sh. Nitin Singhal Matta Garg & Co. Chartered Accountants, 15, Astley Hall, Dehradun, Uttarakhand PAN: AQWPS4877P	Vs.	ITO U.S. Nagar Ward-2(2)(4), Bajpur, UdhamSingh Nagar, Uttarakhand, 262401
Appellant		Respondent

Assessee by	None
Revenue by	Sh. A. S. Rana, Sr. DR
Date of Hearing	04/08/2025
Date of Pronouncement	08/08/2025

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against the order of the Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre, Delhi ('NFAC ' for short] dated 12/04/2023 for the Assessment Year 2015-16.

2. None appeared for the Assessee. Considering the issue involved in the present Appeal, we deem it fit to decide the Appeal on hearing the Ld. Department's Representative and perusing the material available on record.

3. There is a delay of 777 days in filing the present Appeal. The Assessee filed an affidavit for condoning the delay which reads as under:-

“5. Due to severe wave of corona prevalent in Bajpur and other parts of the country the physical movement was totally affected. I was, therefore, prevented from contacting my CA and could not seek legal advise. Even the CAs were not available due to pandemic.

6. After the first wave, the entire focus was on some how to reopen and restart the businesses which was closed for a long time. The substantial losses due to closure of business during pandemic had already been suffered. There were many financial problems in addition to the health issues involved. The main focus was on to restart the business so that continuing losses could be stopped.

4. The matter of order passed u/s 263 somehow escaped attention due to other burning issues related to corona pandemic, restart of the business after pandemic and financial problems.

5. I was not able to settle properly that again the second wave of corona started in February, 2021. I was myself infected with corona virus and survived fatality after concerted efforts and long medical treatment by the doctors. The post corona effect lasted for a long time due to acute weakness and slow recovery and related health issues.

6. By the time I recovered from the corona virus the entire attention was given against restart the business which was adversely affected during my prolonged illness.

7. The serious illness and adverse affect on the business led to financial construction which was the first priority to overcome at that point of time.

8. Later in the month of January, 2023 I met with an accident and my right knee joint was fractured.

9. It struck me on getting reminder for payment of tax demand and I seriously took up the tax matter and sought legal advice. Initially there were different opinions of the experts whether to prefer appeals or not.

10. My Chartered Accountant who was attending the tax proceedings was not in favour of going into appeal. But contacting more experienced legal luminaries inclined me to prefer appeal.

11. Now, finally I have decided to go for appeal against the order passed by learned Principal CIT, Haldwanias also the order of assessment passed subsequently by learned ITO Ward 2(2)(4), Bazpur on 29.09.2021.”

4. The Ld. Department's Representative submitted that, there is no sufficient cause to condone the inordinate delay, thus sought for dismissal of the present Appeal on delay in latches.

5. We have heard the Ld. Departmental Representative and perused the material available on record on the issue of delay in filing the present Appeal. The Assessee contended that due to severe wave of corona prevalent in Bajpur and other parts of the country the physical movement was totally affected and the Assessee was prevented from contacting my CA and could not seek legal advise and even the CAs were not available due to pandemic. Further contended that due to the pandemic the Assessee has faced financial problem in addition to the health issues. The Assessee has produced medical records to substantiate his claim. Due to the said reason the order impugned escaped attention. The Assessee further submitted that even during the second wave Assessee was infected with corona virus and survived

fatality after concerted efforts and long medical treatment by the doctors and post corona effect lasted for a long time due to acute weakness and slow recovery and related health issues. Further submitted that in the month of January, 2023 Assessee met with an accident and his right knee joint was fractured. Due to the above cause, the Assessee could not file the Appeal on time.

6. The Hon'ble Supreme Court time and again clarified that the delay in filing the Appeal with sufficient cause should be looked into in a liberal way and shall condone the delay. In the landmark decision in Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC), the Hon'ble Supreme Court settled the law that the delay when supported by justifiable reasons, must make way for the cause of substantial justice. Considering the above facts and circumstances, we condone the delay of 777 days in filing the present Appeal.

7. Brief facts of the case are that, return of income was filed declaring total income of Rs. 5,37,830/-. An addition of Rs. 2,25,000/- was made in original order u/s 143(3) of the Income Tax Act, 1961 ('Act' for short) passed on 28.12.2017. On noticing addition of Rs. 40 lacs in the capital account of M/s. Rajlaxmi Foods through sale of shares of HPC Biosciences Ltd and Esteem Bio Organic Food Processing Ltd, LTCG on

which was claimed exempt u/s 10(38), the Ld PCIT, Haldwani set aside the AO's order by way of order u/s 263 and directed AO to make fresh assessment. The assessment u/s 143(3) rws 263 Income Tax Act 1961 was completed on 29.09.2021 and total income was assessed at Rs. 52,68,650/-. Addition of Rs 43,74,583/- was made on account of bogus long term capital gain on sale of shares, of Rs. 2,25,000/- as unexplained expenses and Rs. 1,31,237/- under section 69C Aggrieved by the assessment order vide order dated 29/09/2021.

8. Aggrieved by the assessment order dated 29/09/2021, the Assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 12/04/2023, has dismissed Appeal.

9. The Ld. Department's Representative vehemently submitted that all the grounds of appeal of the Assessee have been decided on merits and the Assessee neither appeared nor produced any document to contradict the findings of the Lower Authorities, thus sought for dismissal of the Appeal.

10. We have heard the Ld. Department's Representative and perused the material available on record. As could be seen from the order of the Ld. CIT(A), the Ld. CIT(A) has decided all the grounds of Appeal in a

threadbare manner, wherein the Ld. CIT(A) has considered the submissions made by the Assessee qua the additions under challenge. Though the present Appeal has been filed by the Assessee through authorized representative, neither the Assessee nor the Assessee's Representative have appeared and made any submission. Considering the above facts and circumstances, we find no cogent reason to interfere with the findings and the conclusion of the Ld. CIT(A). Accordingly, the appeal of the Assessee is hereby dismissed.

11. In the result, appeal filed by the Assessee is dismissed.

Order pronounced in the open court on 08TH August, 2025

Sd/-

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Date:- 08.08.2025
R.N, Sr.P.S*

Copy forwarded to:

1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(Appeals)**
5. **DR: ITAT**

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**

