

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

I.T.A. No. 34/DDN/2025 (A.Y 2017-18)

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|--|------------------------------|-------------------------------|
| Javed Mohammad Bhoor Mohalia, Khatima, Udham Singh Nagar, Uttarakhand PAN: AVEPM9410H | Vs. | ITO Khatima Uttarakhand |
| Appellant | | Respondent |
| Assessee by | Sh. MohitDev, Adv | |
| Revenue by | Sh. Amar Pal Singh, JCIT, DR | |
| Date of Hearing | 07/08/2025 | |
| Date of Pronouncement | 13/08/2025 | |

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals/ National Faceless Appeal Centre (Ld. CIT(A)/NFAC' for short), New Delhi dated 24/05/2024 for the Assessment Year 2017-18.

2. There is a delay of 201days in filing the present Appeal. The Assessee filed an affidavit contending that the appeal could not be file on time as the Assessee was ill and had been undergoing treatment at Gangasheel Hospital related to heart disease. As per the advice of the Doctor to take rest, the movements of Assessee were restricted therefore, the Appeal could not be filed on time.

3. Per contra, 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.

4. We have heard both the parties and perused the material available on record on the issue of delay in filing the present Appeal. The Assessee contended that Assessee was ill and had been undergoing treatment at Gangasheel Hospital related to heart disease. As per the advice of the Doctor to take rest, the movements of Assessee were restricted therefore, the Appeal could not be filed on time.

5. 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 201 days in filing the present Appeal.

6. Brief facts of the case are that, an assessment order came to be passed on 30/12/2019 u/s 144 of the Income Tax Act, 1961 ('Act' for short) by making certain additions. The Assessee preferred an Appeal

before the Ld. CIT(A) which has been dismissed on 24/05/2024 vide order impugned. As against the order of the Ld. CIT(A) dated 24/05/2024, the Assessee preferred the present Appeal.

7. The Ld. Counsel for the Assessee submitted that both the order of the A.O. as well as Ld. CIT(A) are ex-parte and the Ld. CIT(A) has not decided on the grounds of the Appeal of the Assessee and the order impugned came to be passed in violation of principals of natural justice. Thus, sought for allowing the Appeal.

8. Per contra, the Ld. Department's Representative submitted that the Assessee is a chronic defaulter who has not appeared before the Lower Authorities, therefore, both the A.O. as well as the Ld. CIT(A) have passed the respective orders in accordance with law which requires no interference, thus by relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

9. We have heard both the parties and perused the material available on record. Both the order of the A.O. as well as order of the Ld. CIT(A) are ex-parte, wherein the Assessee has not participated in any of the proceedings. Even the Ld. CIT(A) has not decided all the grounds of Appeal on its merits. In view of the above, in the interest of justice, we deem it fit to restore the issue to the file of the A.O. for de-novo

assessment. Needless to say, the A.O. shall provide opportunity of being heard to the Assessee before passing the assessment order in accordance with law. The Assessee is also directed to participate in assessment proceedings without fail.

10. In the result, the Appeal of the Appellant is partly allowed for statistical purpose.

Order pronounced in the open court on 13th August, 2025

Sd/-

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Date:- 13 .08.2025

R.N, Sr.P.S*

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

ASSISTANT REGISTR
ITAT, NEW DELHI

