

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

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND  
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
(Hybrid Hearing)**

**I.T.A. No. 526/Asr/2024  
Assessment Year: 2012-13**

Khurshid Ahmad Bazaz, Alamdar Colony Botshah Mohalla, Lal Bazar Srinagar. [PAN:-ASRPB1602Q] <b>(Appellant)</b>	Vs.	ITO, Ward-1, Srinagar.  <b>(Respondent)</b>
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<b>Appellant by</b>	Sh. Bashir Ahmad Lone, CA.
<b>Respondent by</b>	Sh. Charan Dass, Sr. DR

<b>Date of Hearing</b>	10.07.2025
<b>Date of Pronouncement</b>	18.08.2025

**ORDER**

**Per: Udayan Dasgupta, J.M.:**

This appeal is filed by assessee against order of Ld. CIT (A), NFAC, Delhi, passed u/s 250 of the Act 1961, dated 16.11.2023 which has emanated from the order of the AO, dated 28/11/2019, passed u/s 144 of the Act 61.

2. Condonation of Delay:

It is pointed out by the Registry that the appeal is filed belatedly by 249 days. The assessee has filed an application for condonation of delay alongwith affidavit as well as medical certificate stating that the assessee was under medical treatment

during the month of December 2023 which continue till April 2024 (*medical certificate issued by Well Care Medical Institute) Ahmad Nagar Srinagar.*

Thereafter, it is also submitted that the consultant of the assessee has defaulted by not informing the receipt of the appellate order to the assessee, which has resulted in this delay of 249 (two hundred forty nine days). It is submitted that the delay has occurred due to non-cooperation of the earlier tax consultant and the assessee was absolutely ignorant and was not at all acquainted with the provisions of the Act and he had no knowledge that the order of the first appellate authority has been disposed off.

2.1 He therefore, prayed that in the interest of justice and in absence of any wilful neglect or default on the part of the assessee, the appeal belatedly filed may please be admitted for the purpose of hearing on merits. The ld. DR has no objection regarding the condonation of delay.

2.2 Considering the medical report of the assessee alongwith contents of the affidavit we condone the delay and we admit the appeal to be heard on merits.

3. The grounds of appeal in Form No. 36 are as under as taken by the assessee:

*“1. The order passed u/s 147/144 of the Act is invalid, void-ab initio, in view of fact, that no DIN is mentioned on the body of assessment order & notice of the demand.*

*2. The Ld. CIT(A) erred in both facts & laws by dismissing the appeal without deciding the appeal on merits, which the CIT(A) is not empowered.*

3. *The Ld. CIT(A) erred in both facts & laws by confirming the assessment order, when the reopening is purely based on AIR information rather on any tangible material.*

4. *The Ld. CIT(A) erred in both facts & laws, by conforming addition of Rs 33,76,500.00 as unexplained investment in an arbitrary manner, when the same represent sales made in an ordinary course of business duly accounted in the books of accounts.*

5. *The appellant craves leave to add, amend, modify, withdraw any ground of appeal at the time of hearing and before the appeal is disposed off.*

6. *Therefore it is prayed, that the aforesaid additions made may please be deleted in full.”*

4. Brief facts of the case emerging from record are that the assessee has deposited cash amounting to Rs.33.76 lakhs in the bank A/c in J & K, Bank Srinagar Branch during the F.Y. 2011-12 and in absence of any return being filed and after inquiry u/s 133(6) the proceedings has been initiated by notice u/s 148 after approval from higher authorities.

4.1 In absence of any compliance to the said notices issued and due to no response to subsequent notices issued u/s 142(1) of the Act, the assessment has been completed ex parte on a total income of Rs. 33.97 lakhs.

5. The matter was carried in appeal and the ld. first appellate authority dismissed the appeal in absence of any response to various notices issued in the ITBA portal

on four separate dates of hearing. The appeal has been dismissed by observing as follows:

“8. In view of the above facts and circumstances of the case, it is noticed that the proper opportunity given to appellant at the time of assessment proceedings as well as appellate proceedings to furnish the necessary details/documentary evidences in support of his case but the appellant has failed to produce any supporting material in this regard. Hence, in view of the above and on the basis of the detailed findings and reasons given by the AO in his assessment order, which have not been explained by the appellant and no evidence to the contrary has been submitted either at the stage of assessment or appeal which has been pending for more than 3.10 years, I uphold the addition made by the Assessing Officer, in the absence of any documentary evidences to rebut the findings made in order dated 28/11/2019. Accordingly, the issue is decided against the appellant and the grounds of appeal in this regard are dismissed.

9. In the result, appeal is treated as dismissed.”

6. In course of hearing before the tribunal, the assessee has filed a short paper book containing documents alongwith an application under Rule 29 of the ITAT Rules 1963 for admission of additional evidence. The assessee has submitted copies of bank statements of J & K Bank, State Bank of India, copy of cash book print out for the period from April 2011 to March 2012 and copy of sales ledger and purchase book for the entire period which records the business transaction of the assessee

throughout the entire period. He further submitted that the assessee is engaged in the business of trading of gold coins and he stated that the source of cash deposit in bank a/c are all explainable from his regular books of accounts and all transactions are recorded in his cash book. He further prays for an opportunity of hearing so that he can explain the nature of his business and the source of cash deposit in bank from his regular books of account supported by documentary evidences. He further referred to the copies of the bank statements furnished in the paper book and submitted that the AO has only considered the credit side of the bank statement and added back the entire deposit in bank as total income of the assessee without considering the cash withdrawals from the same bank a/cs. As such, he requests an opportunity to explain his case with necessary documentary evidences and submitted that during the course of original assessment proceedings in the year 2019, the entire Kashmir Valley was disturbed and inspite of all documentary evidences being in possession of the assessee, the same could not be furnished before the AO.

7. The Id. DR relied on the order of the Id. CIT(A) but he has no objection if the matter is remanded back for fresh examination of the documentary evidences.

8. We have considered the materials on record and the rival submissions and we find that the assessee has furnished a copy of cash book print out and bank statements alongwith sales and purchase ledger to prove the existence of his business which needs to be examined and verified and as such, in the interest of justice, we set aside the matter back to the file of the AO for fresh assessment on the basis of documentary

evidences and books of account to be produced by the assessee and we also direct that the assessee should be allowed proper and reasonable opportunity of being heard and the assessee is directed to furnish all documentary evidences alongwith all explanations before the AO and fully cooperate in fresh assessment proceedings.

9. We have not expressed any opinion on merits.

10. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order pronounced on 18.08.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

Sd/-

**(MANOJ KUMAR AGGARWAL)**  
**Accountant Member**

Sd/-

**(UDAYAN DASGUPTA)**  
**Judicial Member**

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

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