

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, 'DB': AMRITSAR**

**BEFORE SHRI UDAYAN DAS GUPTA, JUDICIAL MEMBER  
AND**

**SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.22/ASR/2025  
[Assessment Year: 2017-18]**

Bilal Ahmad Hazari, Rajouri Kadal Teer Gari Pora, Srinagar, Jammu & Kashmir-190002	Vs	Income Tax Officer, Ward-3, Srinagar, Near Silk Factory, Srinagar, Jammu & Kashmir-190008
<b>PAN-ABQPH7969A</b>		
Appellant		Respondent

Appellant by	Shri Bashir Ahmad Lone, CA
Revenue by	Shri Charan Dass, Sr. DR

<b>Date of Hearing</b>	<b>27.05.2025</b>
<b>Date of Pronouncement</b>	<b>22.08.2025</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the assessee is directed against the order of learned National Faceless Appeal Centre/Commissioner of Income Tax (Appeals), New Delhi, (hereinafter referred to 'ld. CIT(A)') dated 27.03.2024 pertaining to Assessment Year 2017-18, arising out of assessment order 25.12.2019 passed u/s 144 of the Income Tax Act, 1961 (hereinafter referred as 'the Act').

2. There is a delay of 226 days in filing the appeal before us. The assessee has filed a condonation application, which is reproduced as under:-

*Subject:- Application for Condonation of delay for filing Appeal u/s 253 of the Act.*

***May I Please your Honour,***

*The appellant filed appeal u/s 253 of the Act before the Hon'ble Bench on 08/01/2025. The date of appeal order passed u/s 250 of the Act is 27/03/2024 and the time of 60 days under normal circumstances expired on 26/05/2024, the appellant posted appeal on 03/01/2025 and the same stand received on 08/01/2025. Therefore, there is delay of 226 days from date of appeal order to date of receipt of appeal by the Hon'ble Bench under normal circumstances.*

*It is submitted, that appellate could not avail the opportunity before Ld. CIT(A), in view of the fact, that, appellant is totally illetrate, unable to operate mail or smart phone nor the tax consultant intimated him about fixation of case, besides the appellant had suffered badly due to accident which cut his leg ligament and was taking treatment from Sports Injury Hospital Safdaranj Delhi, which effected his movement and could not attend the tax consultants office,, resulting in non availing of opportunity before CIT (A) and delay in submitting appeal before the Hon'ble Bench .*

*The appellant came to know of the disposal of the appeal, when, he enquired in routine manner about the status of appeal from tax consultant,, where the appellant came to know, that appeal stands already disposed off, Therefore, the delay, if we take date disposal of appeal, as date of service of appeal order is 226 Days and the same happened due to circumstances beyond the control of assessee and there was no deliberate attempt by assessee.*

*The appellant has taken reasonable care of assigning the job to a qualified tax consultant, paid him appropriate fee, however could not attend his office due to accident. Therefore, there is no deliberate delay on the part of appellant, despite taking due care, the appellant suffered due to circumstances beyond his control.*

*Therefore in the interest of justice, it is prayed to allow the matter to be contested rather to dismiss it on delay, that too beyond the control of appellant & discretion may please be exercised to the further cause of justice.*

2.1. 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 appeal. We, therefore, condone the delay of 226 days and admit this appeal for hearing.

3. Brief facts of the case:-The assessee did not file his return of income and the Assessing Officer had information that during the year, the assessee has made deposits of Rs.53,53,276/- during the financial year2016-17 in his bank account

No.xxxxxx00995 with Jammu & Kashmir Bank Limited. It was further noted that out of above deposit a sum of Rs.11,04,433/- was made by way of cash deposit during the demonetization period i.e. 09.11.2016 to 30.12.2016 and the balance deposit of Rs.42,48,843/- were made during the remaining period of the financial year. The assessee did not respond to the notice issued by the Assessing Officer and the assessment was completed u/s 144 of the Act. The Assessing Officer noted that the assessee has failed to file any explanation regarding the source of cash deposits made in the bank account in old currency (SBNs) amounting to Rs.11,04,433/- and added the same u/s 69A of the Act. Further, regarding the balance amount of Rs.42,48,843/-, the Assessing Officer applied the rate of net profit @ 8% on the said deposits which comes to Rs.3,39,907/- and added the same as undisclosed business income.

4. Aggrieved with the said order, the assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) in para 4.1 of the order noted that notice of hearing was issued on 18.01.2024, 01.02.2024, 09.02.2024, 23.02.2024 and 13.03.2024 when there was no response by the assessee. It was also stated by the Ld. CIT(A) in the said para that hearing notices was delivered on the e-mail ID address and Form No.35 on ITBA system. Thereafter, the Ld. CIT(A) considered the matters on merit and held that the assessee has failed to explain the source of cash deposits and credit entries with supporting evidence in spite of giving five opportunities of being heard and therefore he confirmed the addition made by the Assessing Officer and dismissed the appeal of the assessee.

5. Aggrieved with the said order, the assessee is in appeal before us by raising the following grounds of appeal:-

*“1. The appellant has not been granted any real opportunity during the assessment proceedings nor the appellant could avail the opportunity before CIT(A) resulting in lack of natural justice.*

*2. The Ld. CIT(A) erred in both facts & laws, by confirming the addition of Rs 11,04,433.00 u/s 69A of the Act in an arbitrary manner, when the same represent sales and collection from customers made in ordinary course of business and duly accounted in the books of accounts.*

*3. The Ld. CIT(A) erred in both facts & laws by confirming Net Profit rate of 8% on sales, when the profit rate of the appellant is very low.”*

6. During the hearing before us, the Id. AR submitted an application for submission of addition evidence under Rule-29 of the ITAT Rules, 1963. Further, the assessee also filed a written submission in respect of grounds of appeal.

7. We have heard both the parties and perused the material available on record. In this case, the assessment order was passed u/s 144 of the Act and also the Id. CIT(A) dismissed the appeal of the assessee ex-parte. The assessee has filed a paper book containing pages 1 to 24, which includes cash book and sales ledger. These facts require factual verification by the Assessing Officer. The assessee has explained the reasons for his non-appearance before the Assessing Officer as well as the Ld. CIT(A). Therefore, in the interest of justice, and to give one more opportunity to the assessee, we set-aside the order of the Ld. CIT(A) and restore the matter to the file of the Assessing Officer for fresh adjudication.

8. Before concluding we find that in the instant case, the Id. CIT(A) issued the notice in ITBA portal and also in the e-mail ID provided in form 35, as confirmed by the Id. DR, and the present counsel also admitted to the same. As such, we observe that there were some latches on the part of the assessee in not appearing before the Ld. CIT(A) and as such, we impose a token cost of Rs.5,000/- (Rs. Five thousand) on

the assessee to be deposited to the credit of the Prime Minister National Relief Fund, within 30 days, (thirty) from the receipt of this order, evidence to be produced before the jurisdictional AO.

8.1 With the above observation, we remand this case back to the file of the Assessing Officer for *de novo* assessment as directed above and we also direct the assessee to file all necessary papers and documents including the additional evidences filed before us in support of his case before the AO, and to fully cooperate in fresh assessment proceedings.

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

Order pronounced as per Rule 34(4) of the ITAT Rules, 1963 on 22<sup>nd</sup> August, 2025.

**Sd/-**  
**[UDAYAN DAS GUPTA]**  
**JUDICIAL MEMBER**

**Dated** 22.08.2025.

*Shekhar*

Copy forwarded to:

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

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, Amritsar