

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No. 199/Agr/2025
Assessment Year: 2012-13

Gangadhar (deceased) through Legal heir Satish Chand, Kasimpur Ka Nagla, Kasimpur, Aligarh (UP)	Vs.	Income-tax Officer, Ward 1(3), Aligarh.
PAN : BFZPG6605L		
(Appellant)		(Respondent)

Assessee by	Sh. Avan Kumar Singh, CA
Department by	Sh. Anil Kumar, Sr. DR

Date of hearing	19.08.2025
Date of pronouncement	29.08.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been filed on behalf of the assessee, Gangadhar (deceased) through legal representative, Shri Satish Chand against the impugned order dated 07.06.2023 passed in Appeal No. CIT (A) Aligarh/10027/2018-19 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for the assessment year 2012-13.

2. At the very outset, we notice through registry report that this appeal was filed on 11.04.2025 against the impugned order dated 07.06.2023 by a

delay of about 613 days. Ld. AR has submitted, in accordance with the contents of delay condonation application, that the assessee died on 11.05.2021 and the legal representative of the deceased assessee had no knowledge of the impugned order. The legal representative came to know about the same when demand notice was received. An affidavit has also been filed in support of the delay condonation application. In the circumstances and in the interest of justice, we condone the delay.

3. Brief facts state that the assessee did not file return of income for A.Y. 2012-13. According to the information available with the department, the appellant was found to have sold immovable property for Rs.1,21,36,800/-, stamp value of which, according to the government valuation, was Rs.93,36,800/-. Case was reopened u/s. 147 and notice u/s. 148 of the Act was issued. The appellant assessee did neither respond nor file any return of income in response thereof. Learned Assessing Officer, thus carried out 'best judgment assessment' u/s. 144 of the Act by computing long term capital gain on sale of immovable property and assessed total income at Rs.78,61,690/-.

4. Aggrieved assessee preferred an appeal before Id. CIT(Appeals), who dismissed assessee's appeal ex parte.

5. This second appeal has been filed on the ground, in addition to others, that the impugned ex parte order has been passed without affording proper opportunity of hearing in violation of the principles of natural justice.

6. Perused the records and heard learned AR for assessee and learned DR for revenue.

7. Learned AR submitted that the Id. CIT(Appeals) has passed ex parte impugned order without affording proper opportunity of hearing to the assessee in gross violation of the principles of natural justice.

8. Learned DR supported the orders of the authorities below.

9. It transpires from the perusal of the assessment record that due to irresponsive conduct of the assessee learned Assessing Officer was compelled to pass best judgment assessment u/s. 144 of the Act. Similarly, Id. CIT(Appeals) was also compelled to pass ex parte impugned order due to non-submission on behalf of the assessee despite various notices dated 24.02.2021, 09.07.2021, 13.08.2021 and 18.05.2023 issued to the appellant through ITBA Portal. Such an irresponsive conduct of the assessee is unacceptable, however, in the totality of facts and circumstances and in the interest of justice, we deem it just and proper to afford an opportunity to the appellant assessee to make his submissions before the Assessing Officer. The matter is thus remitted back to the file of Assessing Officer for passing order afresh in accordance with law after

taking assessee's submissions into consideration. We further deem it just and appropriate to observe that learned Assessing Officer shall take notice of the fact of the death of the assessee, treating the assessment through legal representative of the deceased assessee. We order accordingly. Needless to say that learned Assessing Officer shall ensure the observance of the principles of natural justice. The appeal is liable to be allowed accordingly.

10. In the result, appeal is allowed for statistical purposes. The impugned order dated 07.06.2023 stands set aside.

Order pronounced in the open court on 29.08.2025.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Dated: 29.08.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra