

**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. 47/Asr/2025
Assessment Year: 2013-14**

Sh. Farukh Kabir, Prop. M/s Habsun Motors, Residency Road, Srinagar, Kashmir [PAN:-ATSPK8488P] (Appellant)	Vs.	ITO, Ward-3(1), Srinagar. (Respondent)
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Appellant by	Sh. P. N. Arora, Adv.
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	07.08.2025
Date of Pronouncement	08.09.2025

ORDER

Per: Udayan Dasgupta, J.M.:

The instant appeal of the assessee was filed against the order of the Id. Commissioner of Income Tax (Appeals), NFAC, Delhi, passed u/s 250 of the Income Tax Act 1961, [in brevity 'the Act'] for A.Y. 2013-14. The penalty order was emanated from the Id. AO, Ward-3 (1), Srinagar, passed u/s 271(1) (c) of the Act 61 dated 22.09.2016.

2. The assessee has taken four grounds in the memorandum of appeal in Form No. 36 which relates to confirmation of penalty order passed u/s 271(1)(c) amounting to Rs.13.11 lakhs by the Id. CIT(A), without allowing any opportunity of being heard to the assessee before rejection of the appeal, for inordinate delay u/s 249(3) of the Act.
3. The brief facts of the case are that the penalty u/s 271(1)(C) of the Act has been imposed by the Id. ACIT, Ward-3(1), Srinagar, amounting to Rs.13,11,600/- on account of confirmation of fixed deposit interest of Rs.48.11 lakhs which has remained undisclosed and added back in quantum assessment.
4. The penalty matter was carried in appeal and the Id. first appellate authority dismissed the appeal by refusing to admit the same on account of inordinate delay of more than 3 (*three years*) in filing the appeal. The order of penalty u/s 271(1)(c) was passed on 22.09.2016 which was served on the appellant on 30.09.2016 and the appeal before the Id. CIT(A) has been filed on 04.06.2019, which is belated by almost three years.
5. The Id. AR of the assessee in course of appeal submitted that the first appellate authority was not justified in refusing to admit the appeal and refusing to condone

the delay without hearing the assessee or without allowing an opportunity to the assessee to explain the reasons for the delay.

5.1 He further submitted that the delay in filing the appeal was because of floods that has occurred during the year September 2014 where most of the record were damaged due to which the assessee could not file the appeal in time. As such, he prayed an for opportunity to explain the delay before the first appellate authority.

6. The ld. DR relied on the order of the ld. CIT(A) and has expressed his surprise as to how the flood in the year 2014 can be a reason for delayed filing of appeal in the year 2019, when the assessee has appeared in assessment proceedings in between alongwith all particulars in the year 2016. However, he has no objection if the matter goes back to the ld. CIT(A) whether the assessee may get an opportunity to explain the reasons for delay.

7. We have heard the rival submissions and considered the materials on record and we find that the ld. CIT(A) has not allowed any opportunity to the assessee to explain the delay before rejecting the appeal. As such, on the principles of natural justice we remand this case back to the file of the ld. first appellate authority with a direction to allow the assessee an opportunity to explain the ordinate delay of nearly 3 (three) years in filing the appeal before the ld. first appellate authority.

7.1 We have not expressed any opinion on merits of the case.

7.2 We direct the assessee to file all documentary evidences and submits reasons before the ld. first appellate authority to explain the delay to his satisfaction and thereafter if the same is found to be “sufficient reasons” acceptable, the ld. CIT(A) may admit the appeal and may proceed to the dispose of the same as per provisions of law on merits.

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

Order pronounced on 08.09.2025 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.

True Copy
By order