

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2036/Del/2025
(ASSESSMENT YEAR: 2018-19)

Govind Jee Dairymilk Private Limited, F-405, Sudershan Park, Basai Dara Pur, Delhi-110015, PAN:AABCD5635N	Vs.	ITO, Ward-10(1), Delhi.
(Appellant)		(Respondent)

Assessee by	Shri Nikhilesh Kataria, CA
Department by	Shri Mahesh Kumar, CIT-DR

Date of hearing	03.09.2025
Date of pronouncement	10.09.2025

ORDER

PER MANISH AGARWAL, AM:

This appeal is filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (the CIT(A) in short), in Appeal No. NFAC/2017-18/10051429 dated 12.02.2024 u/s 250 of the Income Tax Act, 1961 arising out of the Assessment Order dated 29.04.2021 passed u/s 144 read with Section 144B of the Act for Assessment Year 2018-19.

2. On perusal of the record, it is seen that appeal is filed delayed by 332 days before us, for which delay condonation petition was filed along with the affidavit of the Director of the company wherein it is stated that order of Ld. CIT(A) was sent to the office of the Counsel for preparation of appeal and since the Counsel Sh. Ashish Jain was out of station and the order was received by his office Assistant who was instructed to give the order to Sh. Ashish Jain for preparation of appeal. However, the Office Assistant Sh. Rakesh Kumar Sharma to whom order delivered forgot to convey the same to Sh. Ashish Jain and, therefore, the appeal could not be filed in time. It was further stated that

when recovery proceedings were started by the AO, the fact on non-filing of appeal came to the knowledge of the management of assessee company and, therefore, immediately remedial action was taken and services of another Counsel were obtained and appeal was filed. In this process the appeal was delayed by 332 days. It is submitted by the assessee that delay is bonafide and occurred due to genuine reasons and there was no negligence on the part of the assessee. The Ld. AR also filed affidavit of Sh. Rakesh Kumar Shamra to whom the appellate order was delivered wherein he re-affirmed the facts as narrated above. Assessee further placed reliance on the judgement of Hon'ble Supreme Court in the case of Collector Land Acquisition vs. Mst. Katiji & Ors. in Civil Appeal No.460 of 987 dt. 19.02.1987 and further reliance was placed on the judgement of hon'ble Supreme court in the case of Improvement Trust vs. Ujagar Singh in Civil Appeal Nos.2395 of 2008 dated 26.06.2010. It is thus requested for the condonation of delay in filing the appeal.

3. On the other hand, the Ld. CIT-DR vehemently objected to the condonation of delay in filing the appeal and submits that the reason given by the assessee are not convincing and there was no sufficient cause, therefore, appeal could not be admitted.

4. Heard both the parties. From the facts stated by the assessee in the condonation petition, we find that the assessee has been able to demonstrate that there was sufficient cause in filing the appeal delayed and affidavit of the persons responsible for delay were also filed wherein they admitted the fact that the delay was on their part and assessee had acted bonafide manner. There is no malafide imputable to the assessee and assessee would not have gained in any manner whatsoever by filing the appeal late. It must be considered that in every case of delay, there can be same lapse on the part of litigant concern, however, that alone is not enough to turn down the plea and to shut the door against him. If the explanation does not smack otherwise or it is not put forth as part of dilatory strategy, lenient view should be taken. Considering the overall facts and circumstances of the case and in the larger interest of the natural justice and by respectfully following the judicial

precedents relied upon by the assessee of hon'ble Apex court, we condone the delay in filing the appeal and proceeded to decide the appeal on merits.

5. At the outset, from the perusal of the assessment order as well as the appellate order, it is seen that both the orders are passed ex-parte as assessee has failed to make compliance before both the lower authorities. The Ld. CIT(A) has confirmed the order of Ld. AO without going into the merits of the issues as no substantive compliance was made before the AO nor before Ld. CIT(A), thus, the necessary informations were not available on record. Considering these facts and in the circumstances of the case, in the larger interest of substantial justice, we set aside both the orders of lower authorities and remand the matter to the file of AO with the directions to pass the assessment order donovo afresh after providing reasonable opportunity of being heard to the assessee. The assessee is also directed to participate in the proceedings before the Assessing Officer and filed all the necessary details and evidences as called for in its support. With these directions, ground of appeal No. 5 of the assessee is partly allowed for statistical purposes.

6. Since we have already remanded the case to the file of AO, remaining grounds of appeal taken on merits needs no adjudication.

7. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open Court on 10.09.2025.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated:10.09.2025.

PK/Sr. Ps

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi
