

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

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No. 230/Agr/2025  
Assessment Year: 2018-19

Ajay Kumar Agarwal, Near Patwari Mandir, Navipur Road, Hathras (UP).	<b>Vs.</b>	Income-tax Officer, Ward 4(3)(4), Hathras.
<b>PAN :BHMPA6438C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Deepak Maheshwari, Advocate
Department by	Sh. Sukesh Kumar Jain, CIT(DR)

Date of hearing	21.08.2025
Date of pronouncement	26.09.2025

**ORDER**

**PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:**

This appeal has been preferred by assessee against the impugned order dated 27.02.2025 passed in Appeal No. NFAC/2017-18/10296867 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 2018-19, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal exparte in limine upon rejection of assessee's prayer for the condonation of delay.

2. Brief facts state that the assessee did not file return of income for the assessment year 2018-19. Department had an information that the assessee received credit entries of Rs.1,48,01,612/- including cash deposit of Rs.1,00,000/- in his bank account with State Bank of India, Hathras. That apart the assessee had also withdrawn huge cash amounting to Rs.2,13,70,000/- from his bank account with HDFC Bank, which according to the Assessing Officer, would have been sourced out of huge deposits made in the said bank account, which remained unexplained. Statutory notices were issued and served upon the assessee, which remained un-responded. Learned Assessing Officer carried out best judgment assessment u/s. 144 of the Act and assessed total income of Rs.3,16,72,471/-.

3. Aggrieved assessee preferred an appeal before the Id. CIT(Appeals), who dismissed assessee's first appeal upon rejection of assessee's delay condonation prayer.

4. This second appeal has been filed on the ground, in addition to others on merits, that the delay of 187 days was caused in filing the first appeal before Ld. CIT(Appeals) due to lack of service of the assessment order and assessee not being aware of the assessment proceedings initiated against him, which was passed without proper opportunity of hearing in violation of the principles of natural justice.

5. Perused the records. Heard learned representative for assessee and learned DR for revenue.

6. Learned AR has submitted that the assessee could file first appeal only on 20.10.2023 against the assessment order dated 17.03.2025 by a delay of about 187 days. The delay was caused due to non-service of the assessment order upon the assessee. Assessee's affidavit is also on record to this effect.

7. Learned DR has supported the impugned order.

8. It transpires from the perusal of record that Ld. Assessing Officer passed best judgment assessment u/s. 144 of the Act due to no submissions on behalf of the assessee. Similarly, first appellate authority was also compelled to pass impugned order ex parte in limine due to non-submission on behalf of assessee despite various notices dated 01.11.2023, 06.02.2025 and 18.02.2025. Such an irresponsible conduct of the assessee cannot be appreciated. However, it is well established principle of law that the substantial justice cannot be denied on technical aberrations. The object of prescribing procedure is to advance the cause of justice. In an adversarial justice system like ours, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Justice is the goal of jurisprudence. Any interpretation which eludes or frustrates the recipient of justice, is not to

be followed. The object of prescribing certain time period for filing of the appeal is to expedite the proceedings before the concerned authorities and to advance the cause of justice. In view of the reasons for delay assigned by the assessee before Id. CIT(Appeals), we deem it just and appropriate to condone the delay of 187 days caused in filing the first appeal.

9. During the course of arguments, the assessee requested to restore the matter to the Id. Assessing Officer to enable the assessee to make his submissions. As regards the jurisdiction of the first appellate authority to admit and decide a time barred appeal on merits without condoning the delay in filing the same is concerned, the law on the subject is well settled that unless the delay is condoned, the appeal does not come into existence legally and in such circumstances, Id. first appellate authority is wholly without jurisdiction to hear and decide the appeal on merits. In this background of the matter, we do not accede to the assessee's request to remit the matter back to the Assessing Officer. Accordingly, the matter is remitted back to the file of learned CIT(Appeals) for adjudication on merit, as we have already condoned the delay in filing the first appeal. We order accordingly. We further direct the assessee to be diligent and cooperative in attending the hearings and making submissions before the learned CIT(Appeals) for the expeditious and effective disposal.

Needless to say that learned CIT(Appeals) shall ensure the observance of the principles of natural justice. The appeal is liable to be allowed for statistical purposes.

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

***Order pronounced in the open court on 26.09.2025.***

**Sd/-  
(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

Dated: 26.09.2025

\*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra