

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

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT**

**AND**

**SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**ITA No.6078/DEL/2024  
[Assessment Year: 2017-18]**

Awana Tour and Travels Private Limited, F-15, Sector-20, Noida, Uttar Pradesh-201301	Vs	Asst. Commissioner of Income Tax, Circle-5(1)(1), Aayakar Bhawan, Sector-24, Noida, Uttar Pradesh-201301
<b>PAN-AAICA4752C</b>		
Appellant		Respondent

Appellant by	Shri Pancham Sethi, CA
Respondent by	Shri Pramod Kumar, Sr. DR

<b>Date of Hearing</b>	<b>30.09.2025</b>
<b>Date of Pronouncement</b>	<b>30.09.2025</b>

**ORDER**

**PER VIJAY PAL RAO, VP**

This appeal by the assessee is directed against the order dated 16.10.2023 of the National Faceless Appeal Centre (NFAC)/Ld. CIT(A), Delhi, for Assessment Year 2017-18.

2. There is a delay of 361 days in filing of the present appeal. The assessee has filed an application for condonation of delay alongwith the affidavits of the Director of the assessee company as well as of the Accountant of the assessee company to explain the cause of delay. The Id. AR of the assessee has submitted that during the relevant period, the Accountant of the assessee Shri Deepak Kumar was passing through a family problem and facing matrimonial dispute in the Court. He has

pointed out that his marriage was finally dissolved by the matrimonial court vide judgment dated 20<sup>th</sup> May, 2025. He has further submitted that due to his personal and family problems, he could not noticed the impugned order sent by the Ld. CIT(A) to his e-mail ID and therefore the steps for filing the appeal could not be taken within the period of limitation. Thus, he has submitted that the delay in filing of the appeal was due to matrimonial dispute faced by the Accountant Shri Deepak Kumar and therefore the same was without any intentional or deliberate on the part of the assessee. Thus, he has pleaded that the delay of 361 days in filing of the appeal may be condoned and the appeal of the assessee may be admitted for adjudication.

3. On the other hand, the ld. Sr. DR vehemently opposed the condonation of delay and submitted that matrimonial dispute of the Accountant cannot be a reasonable cause for the delay of 361 days. Further, he submitted that as per records, the marriage of Shri Deepak Kumar was dissolved by the Court in the petition filed by the parties for dissolution of marriage by mutual consent. Therefore, there were no long proceedings undertaken in the Court in dissolution of marriage except the statement of parties recorded by Court.

4. Having considered the rival submission and carefully perusal of the reasons explained by the assessee as well as affidavit filed by the Director of the assessee company, we find that the assessee has explained the cause of delay that due to matrimonial issue between Account Mr. Deepak Kumar and his wife, he over-sighted and missed the e-mail communication sent by the Ld. CIT(A) and therefore the impugned order

was not brought to the notice of the assessee as received in the e-mail of the Account, which has resulted the delay of 361 days in filing the present appeal. The assessee has also filed a copy of judgment of the Family Court, Saket Court, Delhi, dated 20<sup>th</sup> May, 2025, whereby the marriage of Shri Deepak Kumar and his wife was dissolved by way of mutual consent u/s 13B(2) of Hindu Marriage Act, 1955. Having regard to the facts and circumstances of the case and taking a lenient view on the reasonable cause explained by the assessee, we condone the delay of 361 days subject to the cost of Rs.5,000/- to be paid to the Prime Minister National Relief Fund within period of 30 days from the date of this order and admit this appeal for hearing.

5. The assessee has raised following grounds of appeal:-

1. *That on the facts and circumstances of the case the order passed by the Ld. ACIT Circle 5, hereinafter called the Assessing Officer or AO is bad in the eye of law That on the facts and circumstances of the case and in law the Assessing Officer is not justified in applying 8 Percent rate of net profit.*
2. *That on the facts and circumstances of the case and in the eyes of law, the AO is not justified in rejecting books of accounts.*
3. *That on the facts and circumstances of the case and in law 4 the Assessing Officer has grossly erred in making addition of cash deposited.*
4. *That on the facts and circumstances of the case and in law the Assessing Officer is not justified in making addition of cash deposited when books of account have been rejected.*
5. *That the grounds of appeal as herein are without prejudice to 6 each other.*

6. At the time of hearing, the ld. AR has submitted that the ld. CIT(A) has dismissed the appeal of the assessee for non-prosecution as there

was no compliance to the notices issued by the ld. CIT(A). The ld. AR has pointed that nonparticipation of the assessee in the proceedings before the ld. CIT(A) is also due to matrimonial problem of the Accountant, who was looking after the matter of the assessee company. Thus, he has pleaded that the impugned order of the ld. CIT(A) may be set-aside and the matter may be remanded to the record of the Assessing Officer for verification and examination of the relevant details and documents to be filed by the assessee to explain the transactions in the bank account of the assessee as well as gross receipts and the correct income of the assessee.

7. On the other hand, ld. DR has submitted that the assessee has failed to submit the relevant details and documents despite sufficient opportunity were given by the Assessing Officer as well as by the Ld. CIT(A). He has referred to the impugned order of the ld. CIT(A) and submitted that the ld. CIT(A) has issued three notices to the assessee but there was no response/compliance on behalf of the assessee.

8. We have considered the rival submissions and carefully perused the impugned order of the ld. CIT(A). The ld. CIT(A) has issued three notices dated 21<sup>st</sup> September, 2020, 13<sup>th</sup> January, 2021 and 21<sup>st</sup> July, 2023. Undisputedly that the assessee has not responded to any of the notices issued by the ld. CIT(A). However, there is substantial gap between notices issued by the ld. CIT(A) as the last notice was issued after one and half year of the earlier notice and further the ld. CIT(A) has not decided the appeal of the assessee on merits and the same was dismissed summarily for non-prosecution. Thus, the order passed by the ld. CIT(A)

without deciding the grounds raised by the assessee on merits is not in accordance with provisions of section 250 of the Income Tax Act. Accordingly, in the given facts and circumstances of the case and in the interest of justice, we set-aside the impugned order of the Id. CIT(A) and matter is remanded to the record of the Assessing Officer for fresh adjudication after proper verification and examination of the relevant record to be filed by the assessee.

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

Order is pronounced in the open court on conclusion of hearing on 30<sup>th</sup> September, 2025.

**Sd/-**  
**[AVDHESH KUMAR MISHRA]**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**[VIJAY PAL RAO]**  
**VICE PRESIDENT**

**Dated** 30.09.2025.

*Shekhar*

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi