

**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. 48/Asr/2025
Assessment Year: 2011-12**

Sh. Gurdev Singh, Village Laluwal P.O. Fateh Garh Panjtur Distt. Ferozepur, Punjab. [PAN:-BENPS9841D] (Appellant)	Vs.	ITO, Ward 1(5), Jalandhar. (Respondent)
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Appellant by	Sh. P.N. Arora, Adv.
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	09.09.2025
Date of Pronouncement	07.10.2025

ORDER

Per: Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of Id. CIT (A), NFAC, Delhi, passed u/s 250 of the Act, 1961 vide order dated 10.12.2024 which has emanated from the order of AO, Ward,1(5), Jalandhar, passed u/s 147 r.w.s. 144 of the Act, vide order dated 03.12.2018.

2. The assessee has preferred 5 grounds of appeal in form no. 36 and one of the grounds agitated by the assessee is the fact that the Id. First appellate authority has dismissed the appeal by refusing to admit the appeal for adjudication on merits on

account of delay of 594 (five hundred ninety four) days and the said delay has not been condoned and appeal has been dismissed u/s 249(3) of the Act.

3. The brief facts emerging from records are that the assessee has deposited cash amounting to *Rs.32.75 lakhs in Bank Of Baroda, Jalandhar* during the F.Y. 2010-11 (*relevant to the year under appeal*) and no return of income has been submitted. In absence of any response to notice issued u/s 133(6) of the Act the case has been reopened by issue of notice u/s 148 dated 28.03.2018 which was served through affixation on 27.7.2018.

3.1 Subsequent, notice issued u/s 142(1) on various dates were also served through affixation and in absence of any compliance to all the notices issued, the assessment has been completed on a total income of *Rs.35.26 lakhs (which includes the bank deposit of Rs.35.06 lakhs plus bank interest amounting to Rs.19,000/-)*.

3.2 In course of proceedings before the first appellate authority it was seen that the appeal has been filed with a delay of 594 days and the same is not accompanied by any application for condonation of delay. It is observed by the Id. First appellate authority that the assessee instead of filing of application for condonation of delay has contested the service of notice issued u/s 148 and 142(1) and as such, in absence of any reasonable explanation regarding the delay of 594 days, the appeal has been dismissed u/s 249(3) of the Act.

3.3 It is further observed in form 35 serial no. 14 that the assessee has stated that there is no delay in filing the appeal and has categorically mentioned that the order

passed on 03.12.2018 has been served on 24.06.2020 and appeal has been filed before the first appellate authority on 23.07.2020.

3.4 As such, the Id. AR of the assessee prays for opportunity of hearing before the Id. First appellate authority to explain with documentary evidences the actual date of service of the assessment order and at the same time would like to explain the case on merits alongwith the necessary documentary evidences.

4. The Id. DR relied on the order of the Id. CIT(A) but has no objection if the matter is remanded back to the file of the Id. First appellate authority for adjudication on merits.

5. We have heard the rival submissions and consider the materials on record and we find that in the instant case, it is the challenge of the assessee that the assessment order dated 03.12.2018 has been actually served on the assessee on 24.06.2020 and thereafter the appeal has been filed before the first appellate authority within 30 days which according to the Id. AR is perfectly within the time. He further submitted that before dismissing the appeal u/s 249(3) the Id. CIT(A) has not allowed any opportunity to the assessee to explain his case, and the appeal has been dismissed without any opportunity of hearing.

5.1 As such, we are of the opinion that in the interest of justice the matter should be remanded back to the file of the Id. First appellate authority with direction to allow reasonable opportunity to the assessee to prove the date of actual receipt of the

order of the assessment, which has been claimed by him to have been received on 24.06.2020 and has claimed that the subsequent appeal filed is within the time.

5.2 The assessee is also directed to file all documentary evidences in support of his contention and to explain the receipt of the assessment order and in the case of delay, to explain the said delay with reasons to the satisfaction of the Id. First appellate authority. The Id. First appellate authority shall allow reasonable opportunity to the assessee to explain his case, and thereafter on satisfactory explanation thereof he may proceed to dispose off the appeal on the merits of the case, and adjudicate on the ground contained in form 35.

6. We have not expressed any opinion on merits.

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

Order pronounced on 07.10.2025 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 DR, I.T.A.T.

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By order

