



**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW BENCH "SMC", LUCKNOW**

BEFORE SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER

ITA No.406/LKW/2025
(Assessment Year: 2015-16)

Mukesh Sharma 30 Jagannat Ganj, Biswan Sitapur-261201.	v.	ITO Sitapur-261201.
PAN:AWEPS9987J		
(Appellant)		(Respondent)

Appellant by:	None
Respondent by:	Shri Amit Kumar, CIT(DR)

ORDER

PER ANADEE NATH MISSHRA, A.M.:

(A) This appeal vide I.T.A. No.406/LKW/2025 has been filed by the assessee for assessment year 2015-16 against impugned appellate order dated 06.03.2025 of Ld. Commissioner of Income Tax (Appeals) ["CIT(A)"] for short]/National Faceless Appeal Centre (NFAC). The grounds of appeal of the assessee are as under: -

"1. On the basis of facts AMD circumstances, the notice issued by the Ld. Authorities below u/s 148 is beyond the time limit specified u/s 149(1). The subsequent proceedings based on such notice are without jurisdiction AMD need to be annulled.

2. Ground 2. The Ld Authorities below have erred in law as well as on facts in making the addition of gross business receipts receipt from plying commercial vehicle amounting to Rs. 10,70,000 as unexplained money AMD levied the tax u/s 115BBE of the Income Tax Act even though the assessee duly declared income u/s 44AE at Rs. 90,000/-

Ground 3. The Ld. Authorities below have erred in law as well as on facts in not considering the presumptive taxation scheme, 3 opted by the appellant i.e., special provisions of section 44AB for computing profits AMD gains of business of plying, hiring or leasing goods carriages.

Ground 4. The Ld Authorities below have erred in law as well as on fact in not considering the Income declared by the assessee of

*Rs.4,03,179 in his ITR AMD treating the entire income as undisclosed.
Thus the order passed is against the principle of natural Justice.*

*Ground 5. The assessee reserves the right to add amend AMD DLALTE
any of the shove grounds of appeal.”*

(A.1) In this case assessment order dated 30.03.2023 was passed u/s 147 read with section 144 read with section 144AB of Income Tax Act, 1961 (“Act”, for short) whereby the assessee’s total income was determined at Rs.16,17,081/-. The assessment order was passed ex-parte qua the assessee. Vide impugned appellate order dated 06.03.2025, the assessee’s appeal was dismissed by the learned CIT(A). The learned CIT(A) did not decide the assessee’s appeal on merits. The assessee’s appeal was dismissed by learned CIT(A) on grounds of limitation. The assessee had requested for condonation of delay however, the request of the assessee for condonation of delay was not considered favourably by the learned CIT(A) and the assessee’s appeal was dismissed treating the same as inadmissible on grounds of limitation. Aggrieved, the assessee has filed the present appeal in Income Tax Appellate Tribunal.

(B) At the time of hearing, there was no representation from the assessee’s side. In the absence of any representation from assessee’s side, we have heard learned Departmental Representative. The appeal of the assessee has been dismissed by Ld. CIT(A) without providing reasonable opportunity of being heard. On perusal of records, it is found that the appellant had sufficient cause, within the meaning of section 249(3) of the Act, for not filing appeal in the office of learned CIT(A) within time frame mentioned in section 249(2) of the Act. Also, there is no material to establish mala-fide intention behind filing the appeal belatedly. In view of the aforesaid, the delay in filing of appeal in the office of the learned CIT(A) deserves to be condoned. It is also

found that the Assessing Officer had passed *ex-parte* assessment order without providing reasonable opportunity to the assessee. In response to a query from Bench, whether the issues in dispute regarding various additiona made in the assessment order be restored back to the file of the Assessing Officer with the direction to pass *de novo* assessment orders, the learned Departmental Representative expressed no objection, and left the matter to the discretion of the Bench.

In view of the foregoing, I am satisfied within the meaning of section 249(3), that the assessee had sufficient cause for not presenting the appeal in the office of the learned CIT(A) within prescribed time limit. Accordingly, it is held that this was a fit case for the learned CIT(A) to condone the delay in filing of the appeal in his office. Further, the assessment order has also been passed *ex parte*, without providing reasonable opportunity to the assessee. In view of the foregoing, the impugned order of Ld. CIT(A) is set aside; and the issues in dispute regarding various additions made in the assessment order are restored back to the file of the Assessing Officer with the direction to frame *de novo* assessment order on these specific issues of dispute, after providing reasonable opportunity of being heard to the assessee.

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

Order pronounced in the open Court on 15/10/2025.

Sd/-
[ANADEE NATH MISSHRA]
ACCOUNTANT MEMBER

DATED: 15/10/2025

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard file

//True Copy//

By order