

IN THE INCOME TAX APPELLATE TRIBUNAL, DIVISION BENCH, JODHPUR

HEARING THROUGH: VIRTUAL MODE

BEFORE: SHRI. LALIET KUMAR, JM & DR. MITHA LAL MEENA, AM

ITA No. 795/Jodh/ 2024
Assessment Year: 2014-15

LAXMANSINGH SOLANKI(FIRM) 30, Ashapura Township, Pali- Marwar-306401	Vs.	The ITO Pali-Marwar(Raj)-306401
PAN NO: AADFL9249B		
Appellant		Respondent

Assessee by : Shri Amit Kothari, C.A
Revenue by : Shri Arvind Kumar Gehlot, Addl. CIT DR
Date of Hearing : 09/10/2025
Date of Pronouncement : 30/10/2025

आदेश/Order

PER LALIET KUMAR, J.M:

This appeal by the assessee arises out of the order dated 20.09.2024 passed by the Ld. CIT(A)/NFAC, Delhi (NFAC) for the Assessment Year 2014-15.

2. In the present appeal Assessee has raised the following grounds:

1. The CIT(A) has erred in dismissing the appeal because assessee was delayed in filing the appeal. The delay was because of medical reasons and medical certificate and affidavit was also submitted but CIT(A) has not considered the appeal submission which is bad in law and against the principles of natural justice.

2. The Ld. AO has erred in making disallowance of entire JCB expense of Rs.74,03,871/- for non-deduction of TDS without taking into consideration the fact that total JCB expense consist of different nature of expenses and no TDS is required to be deducted on the above payments. Therefore, disallowance of Rs.74,03,871/- for JCB expense is bad in law and against the principles of natural justice.

The Ld. AO has erred in disallowing interest expense of Rs.4,46,546/- for non-deduction of TDS. The interest payment was made to the banking company therefore no TDS is liable to be deducted. Therefore, disallowance of interest paid of Rs.4,46,546/- is bad in law and against the principles of natural justice.

3 The Ld. AO has erred in disallowing the 100% of expense which is bad in law and against the principles of natural justice.

4 The appellant pray for suitable costs.

3. Briefly, the facts of the case are that the assessee, a partnership firm, filed its return of income for A.Y. 2014-15 on 26.11.2014 declaring total income of Rs.17,78,470/-. The assessment was originally completed under section 143(3) on 29.12.2016 at Rs.25,28,470/-.

3.1 Subsequently, the case was reopened under section 147 on the ground that the assessee had failed to deduct tax at source on certain payments of interest (u/s 194A) and JCB hire charges (u/s 194C). As there was no response to various statutory notices, the Assessing Officer completed the assessment *ex parte* under section 147 r.w.s. 144/144B on 27.03.2022 determining income at Rs.1,03,78,887/- by disallowing the said expenses.

4. Against the order of the Ld. AO The appeal before the CIT(A) was filed with a delay of 129 days, supported by an affidavit of Shri Dinesh Singh Solanki, partner of the firm, stating that due to his prolonged illness, he could not access his e-mail account, on which departmental communications were received. It was explained that the delay was neither deliberate nor intentional.

4.1 The Ld. CIT(A), however, rejected the explanation holding that the medical certificate prescribed rest for only 11 days and that other partners could have checked the e-mails. The delay was thus held to be unsubstantiated and not condoned. Consequently, the appeal was dismissed without examining the merits of the assessment.

5. Against the order of the Ld. CIT(A) the assessee filed the appeal before the Tribunal.

6. During the course of hearing the Ld. AR submitted that the appeal was dismissed on technical grounds without affording the assessee an opportunity to contest the matter on merits. The assessee, being a small partnership firm, had registered the personal e-mail ID of its managing partner for departmental communication. Due to his illness, he could not access the e-mails, which led to unintentional delay.

6.1 It was further submitted that the assessee is a bona fide taxpayer and not a habitual defaulter. The explanation was supported by affidavit and medical evidence. The Ld. AR placed reliance upon the following judicial precedents to contend that the expression “*sufficient cause*” deserves a liberal interpretation:

1. *Collector, Land Acquisition v. Mst. Katiji & Ors.* (1987) 167 ITR 471 (SC)
2. *N. Balakrishnan v. M. Krishnamurthy* (1998) 7 SCC 123
3. *Improvement Trust v. Ujagar Singh* (2010) 6 SCC 786

He thus prayed that the delay be condoned and the matter remanded to the Ld. CIT(A) for decision on merits.

7. During the course of hearing the Ld. DR supported the order of the Ld. CIT(A). He submitted that the assessee had been non-compliant throughout the reassessment proceedings despite multiple statutory notices issued under sections 148, 142(1) and 144B.

7.1 The medical certificate relied upon was issued nearly a month after the assessment order and prescribed only 11 days' rest, which could not justify prolonged inaction. Moreover, the firm had multiple e-mail addresses and other partners, hence the plea of illness could not be accepted as “*sufficient cause*”. He further submitted that condonation of delay is a matter of judicial discretion and can be allowed only upon proof of diligence and absence of negligence. Reliance was placed on:

- *Balwant Singh (Dead) v. Jagdish Singh* (2010) 8 SCC 685, and

- *University of Delhi v. Union of India* (Civil Appeal No. 9488 of 2019, SC, dated 17.12.2019).*

7.2 Accordingly, he urged that the order of the Ld. CIT(A) be sustained.

8. We have heard the rival submissions, perused the material available on record, and considered the judicial precedents cited. The short question before us is whether the Ld. CIT(A) was justified in refusing to condone the delay of 129 days in filing the appeal.

8.1 On an overall appreciation of the facts, we are of the considered opinion that the approach adopted by the Ld. CIT(A) is pedantic and hyper-technical. Instead of adopting such a rigid view, the appellate authority ought to have taken a justice-oriented approach, keeping in mind the grassroots ground realities faced by small assessee .

8.2 The assessee before us is not a habitual defaulter but a regular taxpayer. In our opinion, a taxpayer who seeks to avail a statutory remedy deserves respect, fair consideration and reasonable accommodation in appropriate circumstances. There is no straight-jacket formula for mechanically allowing or disallowing condonation of delay. The decisive factor is whether there existed *sufficient cause* for the delay and whether it was deliberate, negligent, or mala fide none of which are borne out from the record in the present case.

8.3 Furthermore, the assessee stood to gain nothing by not filing the appeal within the prescribed period. The explanation of illness, supported by affidavit, though imperfect, appears bona fide. The order of the Ld. CIT(A) dismissing the appeal merely on the ground of delay, without examining the merits, is, therefore, hyper-technical and contrary to the principles of substantial justice.

In our considered view, the Ld. CIT(A) should have exercised his discretion under section 249(3) liberally in the spirit of the decisions of the Hon'ble Supreme Court in *Collector, Land Acquisition v. Katiji (supra)* and *N. Balakrishnan v. M. Krishnamurthy (supra)*. The approach of the Ld. CIT(A) defeats the very object of justice delivery in a faceless regime, where communication lapses can occur for reasons beyond control.

8.4 Accordingly, we hold that the delay in filing the appeal before the Ld. CIT(A) deserves to be condoned. We, therefore, set aside the impugned order of the Ld. CIT(A) and remand the matter to his file with a direction to decide the appeal afresh on merits after granting due opportunity of hearing to the assessee, in accordance with law.

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

(Order pronounced in the open Court on 30/10/2025)

Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

AG

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, JODHPUR
6. Guard File

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

आदेशानुसार / By order,
सहायक पंजीकार / Assistant Registrar