

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 1441/KOL/2025
Assessment Year: 2017-2018**

**Sushant Gupta,.....Appellant
GEETA,
D-59, New Market,
Kolkata-700087
[PAN:ADBPG8015B]**

-Vs.-

**Income Tax Officer,.....Respondent
Ward-32(2), Kolkata,
Income Tax Office,
10B, Middleton Road, Kolkata-700071**

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Manas Mondal, Sr. D.R., appeared on behalf of the
Revenue*

Date of concluding the hearing: November 11, 2025

Date of pronouncing the order: November 13, 2025

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 06.08.2024 passed for Assessment Year 2017-2018.

2. The appeal is time barred by 245 days in filing the appeal by the assessee before the Tribunal. However, the assessee filed an affidavit dated 2nd July, 2025 before the ITAT in support of condonation of delay of 245 days mentioning that due to his mental illness, the appeal could not be filed within the stipulated period and the delay in filing the appeal is purely unintentional and has occurred due to circumstances beyond his control. He also submitted that the delay is neither willful nor deliberate. When he came to know about the order passed by the Id. CIT(Appeals), he approached the Id. A.R. to prefer an appeal, due to that there was a delay of 245 days in filing the appeal before the Tribunal. Therefore, he pleaded to condone the delay in the appeal.

3. Considering the facts and circumstances of the case, I am of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, I am inclined to condone the delay of 245 days. Hence the delay is condoned for the appeal.

4. The facts in brief are that the appellant-assessee filed his return of income on 17.10.2017 declaring income of Rs.11,19,010/-. The case was selected for scrutiny under CASS and statutory notice under section 143(2) dated 08.08.2018 was issued and served on the assessee electronically on 09.08.2018. During the FY 2016-17, the assessee earned income from business and other sources. Subsequently notice under section 142(1) along with questionnaire was issued on different dates and in response of various notices, the assessee submitted his reply and uploaded various documents as per the requirement. The assessee also

produced details of unsecured loan taken from various party along with confirmation, bank transaction details, which were examined on test checked basis. From the record, it is found that the assessee deposited cash into the Bank in old 1000 Rs. notes amounting to Rs.1,19,000/- during demonetization period. The assessee did not furnish any explanation or documents to substantiate such deposition into the Bank. It was noticed that the assessee made payment towards purchase against credit card aggregated amounting to Rs.9,39,400/-, but the assessee failed to explain the cash payment of such credit card purchase bill, the source of that cash payment. The ld. Assessing Officer getting no satisfactory reply from the side of assessee determined the assessed income of the assessee at Rs.21,77,410/-. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals).

5. The ld. CIT(Appeals) dismissed the appeal of the assessee ex-parte saying that the assessee has not been able to even discharge the primary onus/burden statutorily and judicially cast to substantiate the claims made in the ground of appeal inspite of adequate time and opportunities offered.

6. On being aggrieved, the assessee preferred appeal before the ITAT. None appeared on behalf of the assessee at the time of hearing. Therefore, I have decided to dispose of the appeal after hearing the ld. Departmental Representative and perusing the material available on record.

7. At the time of hearing, Ld. Departmental Representative submitted that as the assessee did not file any documentary evidence in support of his claim inspite of providing sufficient opportunities, the ld. CIT(Appeals) has left no other option but to dismiss the appeal of the assessee. He pleaded to confirm the order passed by the ld. CIT(Appeals).

8. I have heard the ld. Departmental Representative and perused the material available on record. By considering the totality of the facts and circumstances of the case, I am of the view that it is a fit case to set aside the order passed by the ld. CIT(Appeals) and remit the matter back to the file of ld. CIT(Appeals) with a direction to dispose of the appeal without any inference on the observations of earlier order passed by him and to decide it afresh on merit. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. CIT(Appeals) failing which the Ld. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits of the case, based on the materials available on the record. Thus, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 13/11/2025.

Sd/-
(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 13th day of November, 2025

*Copies to :(1) Sushant Gupta,
GEETA,
D-59, New Market, Kolkata-700087*

*(2) Income Tax Officer,
Ward-32(2), Kolkata,
Income Tax Office,
10B, Middleton Road, Kolkata-700071*

*(3) CIT(A), NFAC, Delhi;
(4) CIT - , Kolkata;
(5) The Departmental Representative;
(6) Guard File*

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.