

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

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

**I.T.A. No. 1424/KOL/2025
Assessment Year: 2013-2014**

Tawfiqur Rahman,.....Appellant
39A, Old Ballygunge, 2nd Lane,
Kolkata-700019, West Bengal
[PAN:AMHPR8245H]

-Vs.-

Income Tax Officer,.....Respondent
Ward-30(1), Kolkata,
Aayakar Bhawan Dakshin,
2, Gariahat Road (South),
Kolkata-700068

Appearances by:

Shri C.M. Roy, A.R., appeared on behalf of the assessee

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

Date of concluding the hearing: November 10, 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 08.05.2025 passed for Assessment Year 2013-2014.

2. The appeal is time barred by 9 days in filing the appeal by the assessee before the Id. CIT(Appeals). However, the assessee did not file affidavit/condonation petition and despite the specific notice

failed to admit the fact of delay and also not given any cause or reason which could be considered for the condonation of the delay. not able to demonstrate that sufficient cause existed for non-filing the appeal within due time. There is also no merit in the reasons mentioned in Form No. 35 of appeal for condonation of delay. Considering the overall facts and circumstances of the case, I am inclined to condone the delay of 9 days in filing appeal before the ld. CIT(Appeals). Hence the delay is condoned.

3. Facts in brief are that an order under section 147/144 of the Income Tax Act was passed for the AY 2013-14 on 28.12.2017 after making an addition of Rs.10,84,330/- as long term capital gains. Aggrieved by the assessment order dated 28.1.2.2017, the assessee preferred an appeal before the ld. CIT(Appeals) and ld. CIT(Appeals) confirmed the addition as made by the ld. Assessing Officer. The assessee subsequently preferred appeal before the ITAT and Hon'ble ITAT vide its order dated 27.08.2021 directed the A.O. to recompute the capital gain chargeable to tax in the hands of assessee by taking the proportionate share of assessee in fair market value of the property as on 05.10.2010 as determined by the DVO at Rs.13,50,850/- as deemed sale consideration. The ld. Assessing Officer was directed to allow deduction on account of the indexed cost of acquisition of the property while computing the capital gain in accordance with law. Accordingly the assessee was asked to give details of the cost of acquisition of the immovable property with supporting evidence and furnish computation of his income for AY 2013-14, but the assessee did not produce the details and was unable to determine the cost of acquisition and

date of acquisition and, thus long-term capital gains could not be determined. The ld. Assessing Officer revised income u/s. 250/147 of the Act at Rs.10,84,330/- and determined tax at Rs.3,82,046/-, which is payable by the assessee.

4. On being aggrieved, the assessee preferred an appeal before the ld. CIT(Appeals). The ld. CIT(Appeals) dismissed the appeal of the assessee in limine on the ground of not filing appeal within the prescribed time provided under the Act.

5. I have heard both the sides and perused the material available on record. By considering the totality of the facts and circumstances of the case, I condone the delay and remit the matter back to the file of ld. CIT(Appeals) to dispose of the case on merit after providing one more opportunity of being heard to the assessee. 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 in the appeal are allowed for statistical purposes.

6. 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) Tawfiqur Rahman,
39A, Old Ballygunge, 2nd Lane,
Kolkata-700019, West Bengal*

*(2) Income Tax Officer,
Ward-30(1), Kolkata,
Aayakar Bhawan Dakshin,
2, Gariahat Road (South), Kolkata-700068*

*(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*

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