

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(PHYSICAL HEARING)**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

**I.T.A. No. 219/Asr/2025**  
Assessment Year: 2017-18

Mohammad Yousuf Daga,  
Housing Colony, Chanaporam  
Srinagar, J & K.

Vs.

Income Tax Officer,  
Ward-1, Srinagar

[PAN: BDNPD 3162M]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. Arshad Hussain Mir, C.A.  
Respondent by : Sh. Mrs. Roshanta Kumari Meena, CIT D.R.  
Date of Hearing : 23.09.2025  
Date of Pronouncement : 10.11.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of the ld. CIT(A) NFAC, Delhi dated 16.12.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the Assessment Unit, ITD u/s 147 r.w.s. 144 r.w.s. 144B of the Act, 1961 dated 21.05.2023.

2. **Condonation of Delay:** It is noted by the registry that the appeal is belatedly filed by twelve days. The assessee has filed an application for condonation of delay with an affidavit that one *Mr. Mustafa Kasim Ali* was his counsel who was entrusted with the appeal matters , but due to professional negligence on his part , there was no representation before the CIT(A) and the assessee was not aware of the appellate proceedings , which resulted in delay of filing this appeal with a newly appointed counsel, belated by 12 days. He prays for condonation of delay. The Ld. DR has no objection. Considering the reasons stated we condone the delay and admit the appeal.
3. Brief facts emerging are that the assessee has sixteen bank accounts with J & K Bank (as per details in page 4 and 5 of assessment order) and has a total credit of Rs. 5.33 crores in the said accounts which includes cash deposits of Rs. 2.46 crores during the year under appeal, and no return of income has been filed.
4. Proceedings initiated u/s 148 (as per procedure) and various notices issued from the department in course of assessment has remained uncompiled resulting in an ex-parte assessment of Rs. 5.33 crores u/s 147 r.w.s. 144 / 144B of the Act.
5. The appeal before the Ld. CIT (A), has been dismissed for total non-compliance to various notices issued by the Ld. first appellate authority on six different occasions and as ascertainable from the appellate order , notices has been correctly issued to the

email id provided by the assessee in Form 35 [amirjanassociatess@gmail.com](mailto:amirjanassociatess@gmail.com) , and there is absolutely no valid reason for the assessee for his non-compliance.

6. The CIT (A) has dismissed the appeal in *limine* without any adjudication on the grounds of appeal contained in the memorandum in form 35, in absence of any documentary evidences before him.

7. Before the tribunal the assessee has taken eight grounds of appeal and has raised objections relating to absence of opportunity of hearing, and submitted that the assessee is engaged in trading of FRUITS and regular return has been filed in physical form (acknowledgement placed in page 13 of PB) and the said return has not been considered. The Ld. AR further submitted that return is also filed in response to notice u/s 148 on 19<sup>th</sup> May, 2023, but no copy of acknowledgement is filed in support of the same.

8. The Ld. AR further submitted that the previous counsel of the assessee *Mr. Mustafa Kasim Ali*, has failed in his professional duty and because of his negligence the appeal has been dismissed and he prays for a fresh opportunity of hearing so that he may furnish his supporting documents and explain his case.

9. The Ld. DR relied on the order of the Ld. CIT(A) but has no objection if the matter is remanded.

10. We find that the memo of appeal in form 35 contains the email id [amirjanassociatess@gmail.com](mailto:amirjanassociatess@gmail.com) and the Ld. CIT(A) has rightly issued six notices on different dates , in the said mail , without any response, and the name of the counsel *Mustafa Kasin Ali* does not appear anywhere in the records and no affidavit or certificate from the said gentleman has been filed before us.

11. Secondly, we also find from the return acknowledgement receipt furnished before us (*physical return*), for Asst year 2016-17, supposedly filed before *ward – 1 Srinagar*, dated 13<sup>th</sup> November, 2017, bears the departments stamp for the Asst year 2017-18 (*which is not the year under appeal*).

12. We are of the opinion that in the instant case the assessee has not come with clean hands before the court and there is intentional misrepresentation of facts at all stages and we deem it fit and proper to impose a token cost of Rs.5,000/- ( Rs five thousand only ) on the assessee to be paid to the credit of the “ Prime Ministers National Relief fund”, payable within fifteen days of communication of this order , and evidence to be submitted before jurisdictional AO .

13. However, in the interest of justice we remand the matter back to the Ld. first appellate authority to adjudicate on the grounds contained in the memo of appeal on merits and the assessee is also directed to file all necessary documentary evidence and

submission in support of his case to explain the bank credit entries and the source of cash deposits in bank account and to fully cooperate in appellate proceedings.

14. The assessee will be allowed reasonable opportunity of being heard.
15. We have not expressed any opinion on merits and legal issues are left open.
16. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 10.11.2025

**Sd/-**  
**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order