

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

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

**I.T.A. No. 1754/KOL/2025
Assessment Year: 2017-2018**

***Bijaya Saha,.....Appellant
135/1, Collin Street, Kolkata-700016
[PAN:ATGPS1165D]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-32(1), Kolkata,
10B, Middleton Row,
Kolkata-700071***

Appearances by:

*Shri Vinod Kr. Mathur, Advocate, appeared on behalf of
the assessee*

*Shri Kallol Mistry, JCIT, Sr. D.R., appeared on behalf of
the Revenue*

Date of concluding the hearing: November 13, 2025

Date of pronouncing the order: November 17, 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 04.10.2024 passed for Assessment Year 2017-2018.

2. The appeal is time barred by 216 days in filing the appeal by the assessee. However, the assessee filed an affidavit before the ITAT in support of condonation of delay of 216 days mentioning that the delay occurred due to suffering from severe blood diseases and also stating that all the businesses have completely closed down and was not aware of any notices of hearing and the order passed by the Id. CIT(Appeals) and it was really difficult for him to have access to his Accountant and also other professionals to handle the said matter. No such notices were ever issued by the NFAC and the order passed by the Id. CIT(Appeals) was not served upon him either through e-mail or through registered post or any other form. 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 216 days in filing the appeal before the Tribunal and there was no deliberate lapse or negligence on his part. Therefore, he pleaded to condone the delay.

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 216 days. Hence the delay is condoned.

4. At the time of hearing, ld. Counsel for the assessee submitted that the ld. CIT(Appeals) has passed the order ex-parte without giving opportunities to the assessee. He also submitted that even the assessment order has been passed under section 144 of the Act due to non-compliance from the side of the assessee. He prayed for one more opportunity to substantiate his case before the ld. CIT(Appeals).

5. At the time of hearing, ld. Sr. Departmental Representative supported the orders of lower authorities.

6. I have heard both the sides and perused the material available on record. A perusal of the impugned order clearly shows that as there was no response to the notices to substantiate the claim with documentary evidences and submissions, ld. CIT(Appeals) confirmed the addition made by the ld. Assessing Officer. It is also evident that the ld. CIT(Appeals) has not discussed the issue on merits and dismissed the appeal due to non-appearance. I also find that the assessment order has been passed u/s. 144 of the Act as the assessee remained non-compliant and failed to produce any evidence or supporting

documents in support of the claim. Considering the facts and circumstances of the case, I am inclined to set aside the order passed by the Id. CIT(Appeals) and in order to meet the principle of natural justice, remit the matter back to the file of the Id. CIT(Appeals) with a direction to provide 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 Id. CIT(Appeals) failing which the Id. CIT(Appeals) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials available on the record. Thus, the grounds raised by the assessee are partly allowed for statistical purposes.

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

Order pronounced in the open Court on 17/11/2025.

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

Kolkata, the 17th day of November, 2025

*Copies to :(1) Bijaya Saha,
135/1, Collin Street, Kolkata-700016*

(2) *Income Tax Officer,
Ward-32(1), Kolkata,
10B, Middleton Row, 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