

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एफ", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अवधेश कुमार मिश्रा, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER
आअसं.3858/दिल्ली/2025(नि.व. 2012-13)
ITA No.3858/DEL/2025 (A.Y.2012-13)

Ms. Archana Singh,
2302 B Wing, Avalon, Hiranandani Gardens,
Powai, Mumbai, Maharashtra 400076
PAN: BAKPS-7655-E

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Ward-71(5),
Civic Centre, Delhi 110002

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri M R Sahu, Chartered Accountant
प्रतिवादीद्वारा/ Respondent by : Ms. Harpreet Kaur Hansra, Sr. DR
सुनवाई की तिथि/ Date of hearing : 17/11/2025
घोषणा की तिथि/ Date of pronouncement: : 17/11/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 24.02.2025, for Assessment Year 2012-13, whereby the CIT(A) has dismissed appeal of the assessee in *limine* on the ground of limitation.

2. Shri M R Sahu, appearing on behalf of the assessee submitted that the assessee is a homemaker. The assessee had sold her residential property, during the period relevant to impugned assessment year for a consideration of

Rs.60,00,000/-. The said property was acquired by the assessee in November 2009 for a total cost of Rs.57,98,820/-. No return of income was filed by the assessee for AY 2012-13, as the income was below taxable limit. The Assessing Officer (AO) assumed that the sale consideration received by the assessee on sale of property was her income and initiated proceedings u/s.148 of the Income Tax Act,1961(hereinafter referred to as 'the Act'). The alleged notice issued u/s.148 of the Act was never served on the assessee, hence, the assessment was completed u/s.144 r.w.s. 147 of the Act. The assessee came to know about the assessment order and the demand, when the assessee was filing her return of income on 4th February 2021. Immediately, thereafter, the assessee filed appeal against the assessment order dated 27.11.2019 before the CIT(A) on 28.02.2021. Along with appeal, the assessee filed application for condonation of delay citing reasons for delay in filing of appeal. After excluded the period of Covid there was delay of 111 days. The CIT(A) without appreciating the reasons given for delay in filing of appeal, dismissed the appeal in *limine* on the ground of limitation. The assessee had filed an application for condonation of delay supported by an affidavit. The Id. AR submits that the assessee had *bonafide* reasons for delay in filing of appeal, which were duly explained in the affidavit. He further submitted that if give an opportunity, the assessee would be able to substantiate her contention that there was no taxable income during the period relevant to assessment year under appeal. He prayed for restoring the matter back to the AO or the CIT(A).

3. Ms. Harpreet Kaur Hansra, representing the Department submitted that the assessee neither participated in assessment proceedings nor the appeal was filed by the assessee in time, this clearly shows that the assessee is not vigilant enough to defend her case.

4. Both sides heard, orders of the authorities below examined. The CIT(A) has dismissed appeal of the assessee in *limine* on the ground of limitation. Undisputedly, there was a delay of 111 in filing of appeal before the CIT(A) after excluding Covid-19 pandemic period. The assessee has explained the reasons for delay in filing of appeal before the CIT(A), which appears to be *bonafide*. It is a well accepted legal jurisprudence that acceptance of reasons explaining the delay should be the rule and refusal, an exception.

5. The Hon'ble Apex Court in the case of *Collector Land Acquisition vs. Mst. Katiji & Ors. 167 ITR 471* has held that liberal approach should be adopted while dealing with an application praying for condonation of delay. Refusing to condone delay can result in meritorious matter being thrown out at the very threshold and cause of justice being defeated. Pedantic and hyper technical approach should not be adopted while dealing with an application for condonation of delay.

6. In the case of *Ram Nath Sao @ Ram Nath Sahu & Others vs Gobardhan Sao and Others* the Hon'ble Apex Court held, that the expression "sufficient cause" within the meaning of Section 5 of the Limitation Act or Order 22 Rule 9 of Civil Procedure Code or any other similar provision should receive a liberal construction so as to advance substantial justice. The courts should not proceed with the tendency of finding fault with cause shown and reject the petition by a slipshod order in over jubilation of disposal derive. Acceptance of explanation furnished should be the rule and refusal, an exception, more so when no negligence or inaction or want of *bonafide* can be imputed to the defaulting party.

7. Thus, in light of aforesaid decisions of the Hon'ble Apex Court and the reasons explained by the assessee causing delay in filing of appeal before the

CIT(A), we are of considered view that the CIT(A) has erred in dismissing assessee's appeal in *limine* on the ground of limitation. Considering the fact that the assessment order was also passed invoking provisions of u/s.144 of the Act, we deem it appropriate to restore this matter back to the AO for fresh assessment.

8. The AO shall serve notice to the assessee on the email id provided in Form No. 36, as well as through post in accordance with provisions of section 282(1)(a) of the Act.

9. The assessee shall respond to the notice(s) served by the AO, without fail.

10. In the result, impugned order is set aside and appeal of the assessee is allowed for statistical purpose, in the terms aforesaid.

Order pronounced in the open court on Monday the 17th day of November, 2025.

Sd/-

(AVDHESH KUMAR MISHRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 17/11/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI