

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, B: NEW DELHI  
BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER  
ITA No.- 2772/Del/2025  
[Assessment Year: 2010-11]**

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| ILAYASH,<br>C/o Adv. Arpit Agrawal, Gali No. 2,<br>Lalitraj Enclave, Murari Lal Ka<br>Pench, Khurja,<br>Uttar Pradesh 203131 | Vs | ITO,<br>Ward 3(2), Bulandshahr,<br>Aayakar Bhawan, Teachers Colony,<br>Bulandshahr,<br>Uttar Pradesh 203001 |
| <b>PAN- ABGP19627J</b>   |    |   |
| Assessee   |    | Revenue   |

|             |                                    |
|-------------|------------------------------------|
| Assessee by | Shri Arpit Aggarwal, Adv.          |
| Revenue by  | Shri Rajesh Kumar Dhanesta, Sr. DR |

|                              |                   |
|------------------------------|-------------------|
| <b>Date of Hearing</b>       | <b>03.11.2025</b> |
| <b>Date of Pronouncement</b> | <b>03.11.2025</b> |

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the Assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi, dated 30.03.2024 [hereinafter referred to as the ‘Ld. CIT(A)’] arising out of the assessment order dated 11.12.2017 passed under Section 143(3) / 147 of the Income Tax Act, 1961 (hereinafter referred to as ‘the

Act') by the ITO, Ward- 3(2), Bulandhshahr, (hereinafter referred to as the 'Ld. AO') pertaining to A.Y. 2010-11.

2. This appeal has been filed by the assessee on 26.04.2025 and in Column No. 1(c), the date of receipt of the order is stated to 20.02.2025. Thus, there is a delay of about 11 months in filing of the present appeal. In this regard, the assessee has filed an application for condonation of delay along with an affidavit explaining the circumstances leading to the delay in the filing of the appeal. The relevant extract of the affidavit filed by the assessee is reproduced as under:

*"I, Ilayash S/o Rafeek R/o 91, Tarinan, Khurja, Distt. Bulandshahr (U.P.)-203131, do hereby take oath and solemnly depose as follows:-*

*1. That in this case the appeal has been filed on 26-04-2025.*

*2. That there is a delay in filing the said appeal before the Hon'ble Income-Tax Appellate Tribunal, Delhi Benches, New Delhi on account of the following reason:*

*I am an individual and a layman with no knowledge of law. That I relied on my counsel to represent my cause. The counsel made compliance and filed submissions in the case before Ld. CIT(Appeals) on 17-03-2020 itself. However, due to Covid-19 Pandemic, the case got stalled with the Ld. CIT(Appeals) and No further communication of any Notice of Hearing or Order was provided to me either by the ITD or my own counsel. Only on 20-02-2025, I received the Order u/s 250 when I approached my present legal counsel to enquire about the penalty notices issued and got to know that first appeal proceedings before the CIT(Appeals) were completed and the Order u/s 250 already passed on 30-03-2024. Aggrieved, I have filed the said appeal under consideration. It is prayed that I may not be penalized for the negligence of the previous counsel. It is thus, humbly prayed to condone the delay in filing the said appeal which I, the appellant, was prevented from doing so within time by sufficient cause and which was beyond my control.*

*That the delay in filing the appeal before the Hon'ble Income-Tax Appellate Tribunal, Delhi Benches, New Delhi, is reasonable and there is a sufficient cause for filing the belated appeal. Therefore, it is prayed that the delay may kindly be condoned under these circumstances.*

*verification: - The information furnished above is true and correct to the best of my knowledge and belief and nothing has been concealed there from."*

2.1 We have considered the facts stated by the assessee in the above affidavit. Considering the explanation filed by the assessee, we are satisfied that the assessee was prevented by sufficient cause for the delay in filing the appeal. We, therefore, condone the delay in filing the present appeal and admit the same for adjudication.

3. This case was reopened on the basis of AIR information that the assessee had made cash deposits aggregating to Rs.70,90,440/- in the saving bank account No.097301500886 with ICICI Bank Ltd. Khurja during F.Y. 2009-10 relevant to A.Y. 2010-11 and a notice u/s 148 of the Act, was issued on 29.03.2017 after obtaining prior approval from the Ld. Pr. Commissioner of Income Tax, Ghaziabad. In response to this notice, the assessee submitted that he had already filed his return of income vide Receipt No. 0301027149 dated 20.01.2011 declaring a total income of Rs.1,35,000/- and the same may be considered as return filed against notice u/s 148 of IT Act. 1961. Notice under section 143(2) and 142(1) were issued by the AO. After considering the reply, the AO noted that as per the documents available on record, it was evident that the gross receipts for the Financial Year (F.Y.) in the case of the assessee for 2009-10 was Rs. 70,90,440/-, and therefore, the account of the assessee was required to be audited and asked the assessee to produce the audited books of account. The assessee submitted that he was carrying on vegetables

business and that the assessee and others had transported their vegetables purchased from one station and payment was made through cheque / cash to the growers / commission agents through the aforesaid bank account of the assessee in which cash amounting to Rs. 70,90,440/- was deposited.

3.1 The AO noted that assessee also submitted that there was no partnership or A.O.P. which confirms about individual business and ongoing through the materials available on record and written submission of the assessee it was evident that the savings bank account in which the amounts were deposited was only in the name of the assessee. Further, the AO noted that there was no agreement for mutual business or any firm or AOP formed for the purpose of business and therefore, the AO rejected the contention of the assessee that the amounts deposited into the saving bank belonged to the assessee and his co-businessmen and the total deposit was considered as unexplained income of the assessee in absence of any concrete evidence/documents. Accordingly, the total deposits of Rs.70,90,440/- into the saving bank account was added to the income of the assessee.

4. Aggrieved with the said order, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) dismissed the appeal of the assessee *ex parte*, as according to the Ld. CIT(A), the assessee did not file any explanation during the appellate

proceedings. The relevant extract from the order of the Ld. CIT(A) is reproduced as under:

*“Despite repeated notices as delineated above, the appellant has not seen it fit to file any submissions, information or documents during appeal proceedings. The only material on record in this case is Form 35 filed by appellant and copy of assessment order dated 11.12.2017 filed by the appellant along with Form 35. The material on record has been carefully perused. No evidence has been tendered by the appellant in appeal.*

*There is no material on record to warrant interference in the order of the AO.*

*In view of the fact that there is no material on record to warrant interference in the order of the AO, the Grounds of Appeal are hereby dismissed.”*

5. Aggrieved with the said order, the assessee is in appeal before us on the following grounds of appeal:

*“1. Validity of Order u/s 147 & Notice u/s 148 - That on the facts and circumstances of the case, the Ld. AO is not justified in initiating the proceedings u/s 147 and issuing the notice u/s 148 of the I.T. Act, 1961.*

*2, Validity of Addition u/s 68, 69 and 69A - That on the facts and circumstances of the case, the Ld. AO is not justified in making an addition of Rs. 70,90,440/- considering the total deposits in the bank a/c as unexplained income.*

*3. Validity of Order u/s 250 - That on the facts and circumstances of the case, the Ld. CIT(Appeals) is completely unjustified in dismissing the appeal of the appellant on the grounds that No submissions were made by the appellant. The same is inherently not true. The appellant had duly filed his Written Submission with the Ld. CIT(Appeals), Ghaziabad on 17-03-2020. The same was, however, deliberately not considered.*

*4. That the appellant craves leave to add, alter or amend any of the grounds of appeal before or at the time of hearing of this appeal.”*

6. The assessee filed a ‘Statements of Facts’, where it was submitted that the assessee had duly filed written submissions with Ld. CIT(A), Ghaziabad on

17.03.2020, but the appeal was dismissed vide order dated 30.03.2024 on the ground that no submissions were made by the appellant and the same was inherently not true. The relevant extract from the 'Statement of Facts' is reproduced as under:

*“The appellant is an individual and carrying on vegetables business. The appellant had duly filed his return of income, declaring the total income at Rs. 1,35,000/- on 20-01-2011. Subsequently, the Ld. I.T.O., Ward-3(2), Bulandshahr (hereinafter shortly referred to as AO) issued a notice u/s 148 on 29-03-2017 and assessed the total income at Rs. 72,25,440/- vide an assessment order u/s 143(3)/147 dated 11-12-2017, which was disputed in appeal before the Ld. CIT(Appeals), Ghaziabad.*

*That during the course of hearing of First appeal, the appellant duly filed Written Submission with the Ld. CIT(Appeals), Ghaziabad on 17-03-2020. However, the Ld. CIT(Appeals) via order u/s 250 dated 30-03-2024 dismissed the appeal on the grounds that No submissions were made by the appellant. The same is inherently not true. Hence, this appeal.”*

7. During the course of hearing before us, the Ld. AR referred to Acknowledgment No. 17032013268655 placed at pg. no. 27 of the Paper Book in which it was stated that partial response was being made vide written submission dated 16.03.2020. The Ld. AR submitted that since the above submission was not considered by the Ld. CIT(A), the impugned order of the Ld. CIT(A) deserved to be set aside and the matter may be restored to the file of the Ld. CIT(A) for fresh adjudication after considering the same.

8. The Ld. Sr. DR did not object to the above request made by the Ld. AR.

9. We have heard both the parties and perused the relevant material available on record. As noted above, the Ld. CIT(A) decided the appeal against the assessee *ex*

*parte*, whereas the assessee had filed his written submissions dated 16.03.2020, a copy of which is also placed at pages 28 to 34 of the paper book. Therefore, since the above submissions of the assessee was not considered by the Ld. CIT(A), we deem it fit to set aside the order of the Ld. CIT(A) and restore the matter to the file of the Ld. CIT(A) for fresh adjudication, after providing adequate opportunity of being heard to the assessee and as per law. Further, the assessee will be at liberty to furnish any explanation / evidence in support of his claim before the Ld. CIT(A).

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

Order pronounced in the open court on 3<sup>rd</sup> November, 2025.

Sd/-  
**[YOGESH KUMAR US]**  
**JUDICIAL MEMBER**

**Dated-** 21.11.2025.

Pooja.

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Sd/-  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

Asst. Registrar,  
ITAT, New Delhi,