

**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.- 3327/Del/2024  
[Assessment Year: 2011-12]**

Good View Technologies Pvt. Ltd., G-55/411, Royal Palace Building, Laxmi Nagar, Delhi-110042.	Vs	DCIT, Central Circle, ARTO Complex, Second Floor, Sector-33 Noida- 201301 Uttar Pradesh.
<b>PAN- AADCG7988H</b>		
Assessee		Revenue

Assessee by	Shri Shailendra Kumar, AR
Revenue by	Shri Pooja Swaroop, CIT(DR)

<b>Date of Hearing</b>	<b>06.11.2025</b>
<b>Date of Pronouncement</b>	<b>26.11.2025</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-3, Noida, dated 09.05.2024 [hereinafter referred to as the 'Ld. CIT(A)'] arising out of the assessment order dated 25.02.2016

under Section 153C r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') passed by the DCIT, Central Circle, Noida (hereinafter referred to as the 'Ld. AO') pertaining to A.Y. 2011-12.

2. A search & seizure operation u/s 132 of the Income Tax Act, 1961 was conducted on 09/10/2013 on the premises of the assessee comprising Shubhkamna Buildtech Pvt. Ltd Group of cases. During the course of search and seizure operation in the Shubhkamna Buildtech Pvt. Ltd Group of cases, it was found that the assessee had subscribed to 877450 shares of M/s Arnica Financial Consultants Pvt. Ltd. In this regard, the Assessing Officer observed that assessee was required to provide the details of sources of investment made in the purchase of said shares along with the documentary evidences and copies of bank statement for the relevant period. The assessee failed to provide the required details on the dates fixed for hearing as detailed in the assessment order. From the perusal of the e-return filed by the assessee, it was gathered by the Assessing Officer that during the year the assessee had raised share capital of Rs. 1,00,000/- and share application money of Rs. 90,00,000/- totalling to Rs. 91,00,000/-. The Assessing Officer noted that as the assessee had failed to prove the source of this amount made an addition of Rs. 91,00,000/- to the income of the assessee on account of unexplained cash credit in the books of assessee u/s 68 of the Act. Further, the AO also disallowed a sum of Rs.

1,54,300/-, being 20% of the expenses claimed by the assessee, in the absence of books of accounts and vouchers.

2.1 Aggrieved with the said order the assessee filed an appeal before the Ld. CIT(A), which was dismissed by the Ld. CIT(A).

2.2 Aggrieved with the said order, the assessee has filed an appeal before us on the following grounds of appeal:

*“1. On the facts and in the circumstances of the case and in law the Hon’ble Commissioner of Income-tax (Appeals) erred in not condoning the delay in filing the appeal when assessee company filed the appeal within 30 days of the receipt of assessment order*

*2 On the facts and in the circumstances of the case and in law the Hon'ble Commissioner of Income-tax (Appeals) has mentioned that the remand report has been confronted with the appellant company as per para 5.3 of the order when the same was never given to the counsel of the appellant company during appellant proceedings*

*3 On the facts and in the circumstances of the case and in law the Hon'ble Commissioner of Income-tax (Appeals) erred not allowing addition of Rs. 9254300/- when the same is not out of seized material since assessment order is u/s 153C/144. The seized material talks about investment in Arnica Financial Consultants (P) Ltd. never talks about investment. The source of investment is proved by the assessee through confirmation from M/s Ajnara India Ltd.*

*4 On the facts and in the circumstances of the case and in law the Hon'ble Commissioner of Income-tax (Appeals) erred in law when additional evidences are accepted by him then the same was to be verified by the Ld. AO Appellant company has given confirmation of the company who has given loan but the same was not verified by the department.*

*5 On the facts and in the circumstances of the case and in law the Hon'ble Commissioner of Income-tax (Appeals)' erred not allowing addition of Rs. 154300/- when the same is not out of seized material. This is an adhoc addition and assessment is under section 153C/144*

*6 On the facts and in the circumstances of the case and in law the Hon'ble Commissioner of Income-tax (Appeals) erred in making addition of Rs. 9254300/- when the relevant information was duly placed before him.*

*7 The Appellant craves leave to add, amend, alter vary and / or withdraw any or all the above.”*

3. We notice that there is a delay of 8 days in filing of appeal before us. The Ld. AR submitted that the delay was due to collecting the relevant papers and in completing the formalities for filing of the appeal which may kindly be condoned.

We have perused the above submissions of the assessee and considering the nominal delay of 8 days, we condone the said delay and admit this appeal for adjudication.

4. Further, we notice that there was a delay in filing of the appeal of about 8 months before the Ld. CIT(A) as the appeal was filed on 26.11.2016 against the order u/s 144/ 153C of the Act, dated 25.02.2016 of the Assessing Officer.

5. The Ld. CIT(A) did not condone the above delay, but simultaneously decided the appeal on merits by making the following observations in para no. 2 of his order, which are reproduced as under:

*“2. As already mentioned, there is delay in filing of appeal. However, during the appellate proceedings, no documents in support of the delay in filing of appeal have been filed. Hence, the delay in filing of appeal remains unsubstantiated. In the absence of cogent reasons, the delay cannot be condoned. The appeal is also taken-up on merits as per discussion in the following paragraphs.”*

6. Regarding the delay in filing the appeal before the Ld. CIT(A), the assessee in its ‘Statements of Facts’, in para no. 2 submitted as under:

*“2. That on coming to understand that the DCIT Central Circle Noida has already passed the assessment order for a few assessment years in the Month of February 2016, the assessee had approached the office of Ld. AO and obtained copies of the orders from your office on October 31, 2016 and appeal filed on November 26, 2016. This fact was duly placed before Hon'ble CIT(A) still he considered that this is delay in filing of appeal.*

6.1. Further, the assessee in para no. 4 of the statement of facts also submitted as under:

*“That the affairs of the company were being managed by Mr. Rahul Gaur who was arrested by Orrisa police on December 07, 2015 the relevant documents were duly placed before the Hon'ble CIT(A). His bail was accepted on January 29, 2016 but he had to go through various formalities in Orissa hence was back in Noida in the month of March 2016.”*

7. The Ld. AR submitted that in view of the above facts, the Ld. CIT(A) erred in not condoning the delay and requested that the delay in filing the appeal before the Ld. CIT(A) may be condoned by the Tribunal.

7.1 The Ld. CIT(DR) supported the order of the Ld. CIT(A).

8. We have heard the rival submissions and considered the material on record. The assessee submits that it collected the impugned assessment order from office of the AO on 31.10.2016, and the appeal was filed in November 26, 2016. Further, the assessee submits that Mr. Rahul Gaur, who looked after the company, was arrested by the Orissa Police and he was in custody from 07.12.2015 till March, 2016. Considering the above facts, we are of the considered view that there was sufficient

cause for the disruption in the working of the company, and in collecting the impugned assessment order in time. We also note that the appeal was filed on 26.11.2016 within a reasonable time from the collection of the impugned order dated 25.02.2016 passed u/s 144 / 153C of the Act, 2016 on 31.10.2016. Considering the above facts, we are of the considered view that there was a sufficient cause in not filing the appeal in time in this case before the Ld. CIT(A). Accordingly, we thereby condone the delay of about 8 months in filing of the said appeal before the Ld. CIT(A) and direct the Ld. CIT(A) to admit this appeal for adjudication.

9. As noted above, the Ld. CIT(A), despite not condoning the delay in filing the appeal, proceeded to hear and decide the appeal on merits, which is not as per law because once the delay in filing the appeal is not condoned, the appeal becomes unadmitted and therefore, cannot be decided on merits. Therefore, the Ld. CIT(A) erred in deciding the appeal on merits in this case. Moreover, the assessee in the 'Statements of Facts' in para nos. 4, 5 and 6 submits that the affairs of the company being managed by Shri Rahul Gaur, who was arrested by the Orissa Police on 07.12.2015 returned to Noida only in March, 2016. It was further submitted that the first submission before the Ld. CIT(A) was filed on January 2018 and after that again Mr. Rahul Gaur was behind bars from February 2019 to March 2024 hence the assessee company did not have complete records with him. It has been further stated that the counsel of the assessee company never attended the proceedings in the

absence of Mr. Rahul Gaur and he was not aware of the situation in Noida hence the notices remain uncompiled. The relevant submissions by the assessee in para no. 3 to 6 in the 'Statements of Facts' are reproduced as under:

*"3. That following issues were raised by Ld. AO in the assessment order issued on February 26, 2016.*

*a. A search and seizure operation u/s 132 was conducted on October 09, 2013 on the premises of the assessee comprising Shubhkamna Buildtech (P) Ltd. Group of cases.*

*b. The jurisdiction order u/s 127 in this case was passed in this case by CIT Delhi-1 on 19/05/2014.*

*c. Notice u/s 153C was issued on 21/07/2014.*

*d. Notice u/s 142(1) was issued on 18/12/2015 and thereafter on 18/01/2016*

*4. That the affairs of the company were being managed by Mr. Rahul Gaur who was arrested by Orissa police on December 07, 2015 the relevant documents were duly placed before the Hon'ble CIT(A). His bail was accepted on January 29, 2016 but he had to go through various formalities in Orissa hence was back in Noida in the month of March 2016.*

*5. That first submissions before the Hon'ble CIT(A) was filed on January 2018 and after that again Mr. Rahul Gaur was behind bars from February 2019 to March 2024 hence the appellant company does not have complete records with him right now.*

*6. That the counsel of the assessee company never attended the proceedings in the absence of Mr. Rahul Gaur and he was not aware of the situation in Noida hence the notices remain uncompiled."*

10. We have considered the above facts, and notice that the proceeding u/s 153C of the Act was initiated in this case on 21/07/2014 and the assessment order was passed on 25.02.2016, during which for substantial period the assessee, as per the facts stated above, the key person Sri Rahul Gaur was in the custody of the Orissa Police. Further, the order of the Ld. CIT(A) was passed on 09.05.2024, and prior to

passing of the said order, also the key person Sri Rahul Gaur was behind the bars from Feb. 2019 to March 2024.

11. Therefore, in view of the above facts, we are of the considered view that the assessee was prevented by sufficient cause in not representing its case properly before the Ld. CIT(A). Therefore, in the interest of justice and to give one more opportunity to the assessee to represent its case, we set aside the order of the Ld. CIT(A) and restore the matter to his file for fresh adjudication, after affording due and reasonable 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 its claim before the Ld. CIT(A).

12. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26th NOVEMBER, 2025.

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

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

**Dated- 26.11.2025.**

Pooja.

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi,