

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

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

**ITA No. 331/Agr/2025
Assessment Year: 2012-13**

Deependra Kumar, Mudsama, Nimakhera, Etah-207302 (UP).	Vs.	Income-tax Officer, Ward 4(3)(1), Etah.
PAN :BATPK7392D		
(Appellant)		(Respondent)

Assessee by	Sh. Manoj Kumar, CA
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	15.10.2025
Date of pronouncement	26.11.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 25.11.2022 passed in Appeal No. CIT (A) Aligarh/10355/2019-20 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2012-13, wherein the Id. CIT(Appeals) has dismissed assessee's appeal ex parte.

2. At the very outset, it is noted that this appeal was filed on 27.06.2025 against the impugned order dated 25.11.2022 by a delay of about 944 days.

The reasons for delay assigned in the delay condonation application are that the delay in filing the second appeal was neither intentional nor deliberate, but was caused due to assessee's unawareness regarding time lines of appeal, lack of communication and assistance and disruptions by COVID-19. Prayed to condone the delay.

3. It is well established principle of law that the substantial justice cannot be denied on technical aberrations. The object of prescribing procedure is to advance the cause of justice. In an adversial justice system like ours, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Justice is the goal of jurisprudence. Any interpretation which eludes or frustrates the recipient of justice, is not to be followed. The object of prescribing certain time period for filing of the appeal is to expedite the proceedings before the concerned authorities and to advance the cause of justice. In the instant case, the uncontroverted reasons mentioned in the delay condonation application are treated as sufficient. The said delay of about 944 days caused in filing the appeal is accordingly condoned.

4. Briefly stated, the facts are that based on the information available with the department, it was noticed that the appellant assessee had deposited cash aggregating to ₹14,35,000/- on various dates in his bank

account No. 0370101027294 maintained with Canara Bank, Awagarh, Etah. Consequently, proceedings under Section 147 of the Income Tax Act, 1961 (“the Act”) were initiated. During the course of verification, the assessee explained that the cash deposits were sourced from withdrawals made from his savings bank account, Kisan Credit Card (KCC) account, and agricultural income. However, the Assessing Officer noted that no documentary evidence in support of these explanations was furnished. A notice dated 25.03.2019 under Section 148 of the Act was issued and duly served upon the assessee, but no compliance was made. Subsequently, statutory notices issued under Sections 142(1) and 144 of the Act also remained unresponded. Upon examination of the bank statement of the aforesaid savings account and KCC account No. 1178416399, the Assessing Officer observed that the assessee had deposited cash amounts of Rs.1,35,000/-, Rs.6,00,000/-, Rs.3,00,000/-, and Rs.4,00,000/- on 06.04.2011, 01.06.2011, 23.06.2011, and 04.02.2012, respectively. Further, the assessee had withdrawn sums of Rs.2,98,400/- on 23.06.2011 and Rs.2,90,000/- on 16.02.2012 from his KCC account. Since no cash deposits were found to have been made after 14.02.2012, the Assessing Officer accepted the cash deposit of Rs.2,98,400/-, corresponding to the withdrawal from the KCC account on 23.06.2011, as explained. The balance cash deposits amounting to Rs.11,36,600/- were treated as unexplained and

added to the total income of the assessee as undisclosed income along with addition of Rs.15,818/-, being interest income from the said bank account, as income from other sources. Accordingly, the assessment was completed under Section 147 read with Section 144 of the Act, vide order dated 07.11.2019 at a total income of Rs.11,52,420/-.

5. Aggrieved, assessee preferred an appeal before Id. CIT(Appeals), who dismissed assessee's first appeal ex parte.

6. Appellant assessee has filed this appeal on the ground, in addition to others, that that Id. CIT(Appeals) has erred in affirming the assessment order without properly allowing opportunity of hearing to the assessee for explaining the case on merits and without admitting and considering the additional evidences filed under rule 46A of the Income-tax Rules, 1962.

7. Perused the record. Heard learned representative for assessee and learned Sr. DR for revenue.

8. We note that Id. CIT(Appeals) issued notices dated 15.12.2021, 04.04.2022, 22.06.2022 and 21.10.2022 to assessee, who remained irresponsive. Learned CIT(Appeals), thus passed ex parte impugned order, dismissing assessee's first appeal. Perusal of assessment order also shows that due to irresponsive conduct of the assessee, learned Assessing

Officer was compelled to pass best judgment assessment u/s. 144 of the Act. Such an irresponsive and reluctant conduct of the assessee is unacceptable, however, in the interest of justice, we deem it just and proper to afford an opportunity to the appellant assessee to make his submissions before the Assessing Officer. The matter is thus remitted back to the file of Assessing Officer for passing order afresh in accordance with law after taking assessee's submissions into consideration. We further direct the assessee to be diligent and cooperative in attending the proceedings and making submissions with supporting evidence before the learned Assessing Officer for the expeditious and effective disposal. Needless to say that learned Assessing Officer shall ensure the observance of the principles of natural justice.

9. In the result, assessee's appeal is allowed for statistical purposes. The impugned order dated 25.11.2022 is set aside.

Order pronounced in the open court on 26.11.2025.

Sd/-

**(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 26.11.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra