

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND
SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
(Hybrid Hearing)**

**I.T.A. No. 352/Asr/2024
Assessment Year: 2009-10**

Shri Gurmail Dass Siddhar (Deceased) Through L/H Smt. Niranjan Kaur, Widow Garshankar, Ward No. 2 Near Banga Road Octroi, Garshankar, Hoshiarpur. [PAN:-BWZPS4561C] (Appellant)	Vs.	ITO, Ward- 1, Hoshiarpur. (Respondent)
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Appellant by	None (Adjournment Application)
Respondent by	Sh. Charan Dass, Sr. DR

Date of Hearing	13.11.2025
Date of Pronouncement	27.11.2025

ORDER

Per: Udayan Dasgupta, J.M.:

This appeal is filed by the legal heir (wife) of deceased *Shri Gurmail Dass Siddhar* against the order of the Id. CIT(A) NFAC, passed u/s 250 of the Act dated

14.06.2022 which has emanated from the order of the AO, Ward-1, Hoshiarpur, dated 15.12.2016 passed u/s 143(3) r.w.s. 147 of the Act, 61.

2 Condonation of Delay:

It is pointed out by the Registry that the appeal is barred by 668 (Six Hundred Sixty Eight) days. The appeal has been filed with an application for condonation of delay stating the fact that the appellant is a widow (senior citizen) of 72 years and has been a resident of *UK for last five decades*. She further stated that the assessment proceedings were initiated against her husband on account of sale of some agricultural land, during F.Y. 2008-09 and due to some disputes in assessment, an appeal was filed before the Id. first appellate authority and since she was residing in the UK it was not possible for her to keep track of the said appeal, and she arrived in India on 14.03.2024, and learnt in the month of May 2024, regarding the ongoing appeal process before the Income Tax authorities in India.

2.1 Thereafter, she contacted the counsel and has managed to file this appeal before the tribunal belated by 668 days. The legal heir has prayed for condonation of the delay, because there was no intentional or wilful default on her part and prayed for admission of the appeal for hearing on merits.

2.2 The Id. DR has no objection.

2.3 We have considered the submission of the appellant and we find that there was no intentional neglect or wilful default on her part in filing this appeal belatedly as evident from her date of entry in India on 14.03.2024, and as such, we condone the delay and admit the appeal for hearing on merits.

3. There are four grounds of appeal taken by the assessee in Form No. 36 but the main grievance of the assessee is that the Id. first appellate authority has dismissed the appeal considering the same to be infructuous on the ground that the Hon'ble Tribunal has set aside the orders passed u/s 263 of the Act, back to the jurisdictional PCIT for fresh consideration.

4. Brief facts emerging from records are that the assessment order passed u/s 143(3)/147 dated 15.12.2016 has been challenged in appeal before the Id. first appellate authority on 20.01.2017.

4.1 Meanwhile, the said assessment order was also a subject matter of revision before the jurisdictional PCIT, Jalandhar and vide 263 order dated 23.01.2019 assessment was set aside back to the files of the AO for fresh adjudication in compliance to the 263 order.

4.2 However, said order u/s 263 dated 23.01.2019 was appealed against before the Hon'ble ITAT, Amritsar Bench, and the tribunal vide order dated 13.05.2022 in

ITA No. 231/Asr/2019, has set aside the order u/s 263 and restored the matter back to the Id. PCIT for fresh proceedings in the case.

4.3 Meanwhile, the reassessment order passed by the *AO u/s 143(3) r.w.s. 263 dated 22.12.2019* was also challenged in appeal before the Id. first appellate authority on *05.03.2020*.

4.4 Now, the Id. first appellate authority vide order dated *14.06.2022* has dismissed both the appeals pending before him, one instituted on 20.01.2017 (u/s 143(3) r.w.s. 147 and also the appeal filed against the order (u/s 143(3) r.w.s. 263 instituted on 05.03.2020) as infructuous, by observing as follows:

4. It is observed that appellant has filled two appeals first against 143(3) r.w.s. 147 dated 15.12.2016 passed by the ITO ward-1, Hosiarpur. Meanwhile jurisdictional PCIT-1, Jalandhar has passed order under section 263 on 23.01.2019. Subsequently, AO has also passed order u/s 143(3) r.w.s. 263/147 dated 22.12.2019 in compliance to order u/s 263. The appellant has filled appeal before the honorable ITAT-Amritsar against the order u/s 263. The appellant has also filled appeal before the CIT, Appeal against the order u/s 143(3) r.w.s. 263/147 passed by the AO.

4.1 The honourable ITAT, Amritsar vide order in *ITA No. 231/Asr/2019* dated 13/05/2022 has set aside the order u/s 263 and restored the matter back to the Pr.CIT for fresh proceedings in the case of the appellant for A.Y. 2009-10. Relevant part of the ITAT order is as under:-

"Having heard the rival submissions and considering the facts of the case that the assessee has been denied sufficient opportunity of being heard to present its case in

compliance to the show cause notice dated 25.02.2019 by the Pr. CIT and passed the order ex-parte qua the assessee. We are of the considered opinion that the matter is required to be sent back to the Id. Pr. CIT to examine the matter afresh, after considering the submissions of the assessee shall be filed in the fresh proceedings and affording adequate opportunity of being heard. The assessee is directed to cooperate in the fresh proceedings before the Pr. CIT."

5. In view of the order of the Hon'ble ITAT-Amritsar the appeals filed by the appellant against the orders u/s. 143(3) r.w.s 147 dated 15.12.2016 and u/s. 143(3) r.w.s 147/263 dated 22.12.2019 becomes infructuous as subject orders are restored back the jurisdiction PCIT for fresh consideration. Therefore both the appeals become infructuous and are hereby **dismissed for statistical purposes** without going into merits of the case.

5. Now, the assessee is in appeal before the tribunal on the ground that the appeal already pending before the Id. CIT(A) against the original assessment order passed u/s 143(3)/147 dated 15.12.2016 has not been touched and is still existing as it is against which, the appeal is still pending before the Id. first appellate authority.

6. In course of hearing before this Bench, there has not been any representation by the assessee or his counsel against the repeated calls. *Only an application of adjournment has been filed.*

7. Considering the issues involved, we do not find any reason to keep this appeal pending and we proceed to dispose of this appeal after hearing the Id. DR.

8. We find that the appeal, instituted against the original assessment order dated 15.12.2016 passed u/s 143(3) r.w.s. 147 is still valid and existing against which the appeal has already been filed before the Id. first appellate authority on 20.01.2017 and the said appeal has not been adjudicated on merits, on the grounds contained in Form 35.

8.1 It is only the reassessment order passed u/s 143(3)/263 dated 22.12.2019 has become infructuous because the order of the Id. PCIT exercising jurisdiction u/s 263 has been set aside by the appellate tribunal, for fresh examination. As such, the subsequent resultant order passed u/s 143(3)/263 does not exist and the connecting appeal before the Id. CIT(A) is infructuous.

8.2 However, the original order dated 15.12.2016 is still intact and the same is pending in appeal before the Id. first appellate authority and the Id. CIT(A) is directed to consider the said appeal for fresh adjudication on merits of the case as per ground of appeal contained in Form 35.

8.3 As such, the order of the Id. CIT(A) dated 14.06.2022 is set aside and remanded back to the file of the Id. first appellate authority for adjudication of the appeal against the original assessment order filed on 20.01.2017 on merits and the assessee is also directed to file submissions and all documentary evidences and to fully cooperate in appellate proceedings.

8.4 The assessee has to be allowed reasonable opportunity of hearing and notice to be issued u/s 282 of the Act with copy to her counsel vide e-mail id Bhasin.advocate@gmail.com.

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

Order pronounced on 27.11.2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.

Sd/-

(MANOJ KUMAR AGGARWAL)
Accountant Member

Sd/-

(UDAYAN DASGUPTA)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order