

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.595/RPR/2025**

**निर्धारण वर्ष / Assessment Year : 2013-14**

Laxmi Kant Dubey  
245, Ward No.54, Phool Gaon,  
Durg-491 228 (C.G.)  
PAN: BBXPD9623B

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-1(1), Bhilai (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None (Adjournment Petition)  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 15.12.2025

घोषणा की तारीख / Date of Pronouncement : 15.12.2025

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM**

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 18.10.2024 for the assessment year 2013-14 as per the following grounds of appeal:

“1. In the facts and circumstances of the case and in law, the Id. Commissioner of Income-tax (Appeals) NFAC has erred in confirming initiation of reassessment proceedings u/s.147 of the Income-tax Act, 1961 being illegal and without jurisdiction for it was initiated without fulfilling all the conditions specified in the Act.

2. In the facts and circumstances of the case and in law, the Id. Commissioner of Income-tax (Appeals) NFAC has erred in confirming assessment order passed treating income tax return filed as invalid and completing the assessment without issuing notice u/s.143(2) of the Income-tax Act, 1961.

3. In the facts and circumstances of the case and in law, the Id. assessing officer has erred in issuing notice u/s.148 of the Income-tax Act, 1961 based on invalid approval u/s.151 of the Act, being undated and without DIN because it is not ascertainable whether the approval was given before or after the issuance of notice u/s.148 of the Act.

4. The impugned order is bad in law and on facts.

5. The appellant reserves the right to add, alter, omit all or any of the grounds of appeal with the permission of the Hon'ble appellate authority.”

2. At the very outset, it is noted that this appeal is time barred by 280 days. That explaining reasons for the said delay, the assessee had filed condonation petition a/w. affidavit, dated 25.10.2025. The relevant contents of the said affidavit are extracted as follows:

5. That during the appeal proceedings I duly participated and filed written submission both on legal grounds and on merits.
6. That the Id. Commissioner of Income-tax (Appeals), NFAC has decided the appeal on 18/10/2024 and was pleased to set-aside the matter to the Id. Assessing Officer for making fresh assessment. However, the Id. CIT(Appeals) did not adjudicate the legal grounds.
7. Initially, I was advised to comply with the notice issued u/s.142(1) r.w.s. 250 of the Act. However, upon consulting another counsel practicing in the Hon'ble High Court, I was advised to prefer a second appeal on legal grounds, as in his opinion, such legal issues may not be possible to be raised at a later stage if conceded in the first round.
8. That as per my understanding there are fair chances of substantial relief in further appeal.
9. That the order of Id. CIT(A) is dated 18/10/2024. As per provisions of section 253(3) of the Act the appeal ought to have been filed within two months from the end of month in which the order sought to appeal against was passed i.e. by 31/12/2024. However, owing to the earlier professional advice the appeal has now been filed after a delay of 280 days.
10. The delay occurred solely due to the professional advice received from the tax consultant. There was no mala fide intention and the cause constitutes sufficient reasons for condonation.
11. That in connection with settled principle/legal precedents, I rely on the following cases:-
  - a) Vijay Vishin Meghani vs DCIT/ACIT (Bombay High Court) in ITA 493 & 508/2015, wherein the delay of 2984 days was condoned for the reliance was placed on advise of bona fide professional constitutes as sufficient cause.
  - b) Vinay Ramsharandas Agarwal vs PCIT (Nagpur Tribunal) in ITA No. 110/Nag/2023 wherein it was held that where assessee believes appeal was to be filed after set-aside assessment; there is no mala fide intent.
12. That in view of above facts and circumstances it is humbly prayed that the Hon'ble Tribunal may be pleased to condone the delay and admit the appeal for adjudication in the interest of justice.

3. The assessee vide the aforesaid affidavit states that he was provided with wrong professional advice, for which, the said delay had occurred. The department at the same time has not brought on record any evidence suggesting malafide or deliberate intent on the part of the assessee for causing such delay. In this background, it would be relevant to point out that the Hon'ble Supreme Court in the case of **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025**, had observed that a justice oriented and liberal approach ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. Also, the **Hon'ble High Court of Chhattisgarh** in the case of **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025**, after relying on the judgment of the Hon'ble Supreme Court in the case of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur (supra) had held that a justice oriented and liberal approach be adopted while considering the application filed by the assessee for condonation of delay.

4. That in the recent judgment of the **Hon'ble Supreme Court** in the case of **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21<sup>st</sup> March, 2025**, the Hon'ble Apex Court while interpreting

Section 5 of the Limitation Act, 1963 regarding the condonation of delay in respect of case of land acquisition has observed and held on the aspect of delay that although the delay cannot be condoned without sufficient cause, the merits of the case could not be discarded solely on the ground of delay. A liberal approach, therefore, should be taken in condoning the delay when limitation ground undermines the merits of the case and obstructs the substantial justice. In other words, the objective of the court should be to deliver substantial justice coupled with liberal and judicious approach while deciding the issue of limitation and whenever it is found that the case has merits which needs to be addressed substantially, in such case, the delay should be condoned. Considering the entire factual spectrum and guidance provided in the aforesaid judicial pronouncements, the said delay of 280 days involved in the present appeal is condoned.

5. Coming to the merits of the matter, at the time of hearing an adjournment petition has been filed which is rejected since already sufficient opportunities have been provided to the assessee as per the order sheet entries wherein hearing of the matter was scheduled on 27.10.2025, 27.11.2025, 04.12.2025 and finally today i.e. on 15.12.2025. Therefore, the matter is heard after recording the submissions of the Ld. Sr. DR and on a careful perusal of the documents available on record in

view of the decision of the Hon'ble Apex Court in the case of **Ishwarlal Mali Rathod Vs. Gopal and Ors., passed in Special Leave Petition (Civil) Nos. 14117-14118 of 2021, order dated 20.09.2021.**

6. Coming to the merits of this case, assessment has been completed u/s. 147 r.w.s. 144/144B of the Income Tax Act, 1961 (for short 'the Act'), dated 20.09.2021 for A.Y.2013-14. The A.O had issued statutory notices to the assessee in order to enquire regarding the source of cash deposits in his bank account. However, in spite of reasonable opportunities, the assessee had not responded to such hearing notices. The A.O noted that as per AIR information, the assessee had made cash deposits of Rs.12,05,000/- during the year under consideration and the entire amount of such cash deposits was added in the hands of the assessee as unexplained money u/s. 69A of the Act. Further, as per AIR information, the A.O observed that the assessee has received interest amounting to Rs.65,784/- and commission/brokerage of Rs.7,338/- for F.Y.2012-13 relevant to A.Y.2013-14. That since the assessee has not provided any explanation towards these receipts of income, it was added in the hands of the assessee as income from other sources at Rs.73,122/-.

7. In this regard, the Ld. CIT(Appeals)/NFAC has held and observed as follows:

**“6.0 DECISION:**

On careful perusal of the assessment order, Form 35, grounds of appeal, statement of facts and the submission made of the appellant, the grounds of appeal it is noticed that the appellant has filed the copy of the bank statement as proof for his claim that the source of cash deposit is out of the cash withdrawals made by him and partly from his accumulated savings from the past. It is apparent from the assessment order that the appellant has not furnished the above details to the AO during the assessment proceedings.

Hence, taking the overall facts of the case into careful consideration, in my opinion to meet the ends of natural justice. in accordance with the amended provisions of Section 251 of the Income Tax Act, wherein it is stipulated that in cases where an assessment order has been passed as a "best judgment" assessment under Section 144, the Commissioner (Appeals) is vested with the authority to set aside such an assessment and remand the matter to the Assessing Officer for a fresh evaluation. The present appeal challenges the assessment order passed under Section 144 of the Income Tax Act, based on a "best judgment" determination.

7.1.4 In the interest of upholding the principles of natural justice and exercising the powers conferred upon the Commissioner of Income Tax (Appeals) under Section 251 of the Act, the case is hereby remanded to the Assessing Officer for de novo adjudication in accordance with the statutory provisions of the Income Tax Act. Consequently, the grounds raised by the appellant stand annulled and are remitted to the Assessing Officer for afresh reconsideration

8. In light of the above, the appeal is 'SET ASIDE'."

8. The Ld. CIT(Appeals)/NFAC had observed that on these issues of cash deposits and income from other sources, the assessee has not provided any details/evidences and the assessment has been completed u/s. 144 of the Act, therefore, the Ld. CIT(Appeals)/NFAC as per the power conferred on him u/s. 251 of the Act after amendment, the matter

was remanded to the file of the A.O for denovo adjudication as per law. Therefore, in this regard, I do not find any infirmity with the findings of the Ld. CIT(Appeals)/NFAC which is upheld.

9. As per the above terms, grounds of appeal raised by the assessee are dismissed.

10. In the result, appeal of the assessee is dismissed.

Order pronounced in open court on 15<sup>th</sup> day of December, 2025.

Sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 15<sup>th</sup> December, 2025.

SB, Sr. PS

**आदेश की प्रतिलिपि अग्रहित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,  
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur