

**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. 463 & 464/Agr/2025
Assessment Year: 2014-15**

Sarif S/o Shri Shafik, R/o 131, Mohalla Pathanan, Jalesar, Etah.	Vs.	Income-tax Officer, Ward 4(3)(1), Etah.
PAN :EKAPS8873K		
(Appellant)		(Respondent)

Assessee by	Sh. Deepak Singh, Advocate
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	15.12.2025
Date of pronouncement	18.12.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

These appeals have been preferred by assessee against the impugned orders dated 23.06.2025 & 24.06.2025 passed in Appeal No. NFAC/2013-14/10320101 and NFAC/2013-14/10320102 respectively 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 2014-15. Ld. CIT(Appeals) has dismissed assessee's first appeal preferred against the assessment order dated 22.05.2023 passed u/s. 147/144B of the Act, upon rejection of assessee's prayer for condonation of delay. Ld. CIT(Appeals), also dismissed assessee's first

appeal preferred against the penalty order dated 21.02.2024 passed u/s. 271(1)(c) of the Act.

2. Since, the penalty order passed u/s. 271(1)(c) of the Act is consequential to the assessment order, both these appeals are being disposed of by the consolidated order for the sake of convenience and brevity. The facts of ITA No. 463/Agr/2025 are only being narrated as under:

ITA No. 463/Agr/2025:

3. Brief facts state that appellant assessee filed his return of income on 27.12.2014 declaring total income of Rs.7,96,720/-, which was selected for scrutiny under CASS. The assessment was completed on 30.11.2016 u/s. 143(3) of the Act, assessing total income at Rs.9,46,720/-. Subsequently, as per information available with the department, it was noticed by Assessing Officer that the assessee made bogus purchases of Rs.1,31,58,116/- from one Shri Kallu Kureshi and there were various credit transactions in different bank accounts of the assessee totaling to Rs.13,08,60,19,698/- , which did not match with the return filed by the assessee and the declared sales of Rs.51,01,31,327/-. Based on the aforesaid information, proceedings u/s. 147 of the Act were initiated by issuing notice u/s. 148 dated 30.07.2022, in response to

which the assessee filed return of income, declaring the same income as declared in original return. Statutory notice u/s. 142(1) and show cause notice u/s. 144 of the Act were issued. Being not satisfied with the replies of assessee, the Assessing Officer made addition of Rs.1,38,99,338/- u/s. 69A of the Act as unexplained credits in his bank accounts and Rs.1,31,58,116/- as bogus purchases, vide assessment order dated 22.05.2023 passed u/s. 147 r.w.s. 144B of the Act.

4. Aggrieved, assessee preferred first appeal before learned CIT(Appeals), who dismissed the same upon rejection of assessee's prayer for condonation of delay.

5. This second appeal has been preferred mainly on the ground that the Id. CIT(Appeals) has erred in rejecting assessee's appeal upon rejection of assessee's request for condonation of delay, further erred in confirming the addition on merits.

6. Perused the records. Heard learned representative for assessee and learned Sr. DR for Revenue.

7. At the very outset, it is brought to our notice that these appeals have been filed on 07.10.2025 against the impugned orders dated 23.06.2025 and 24.06.2025 by a delay of about 39 days. Assessee has moved an application for the condonation of delay on the ground that the assessee, being an old illiterate person, has no knowledge of email etc.

and closed down his business in the year 2019. Assessee did not employ any person for looking after his affairs. This caused the delay in filing this appeal. Delay condonation application is supported with assessee's uncontroverted affidavit. The cause for the delay seems to be sufficient and the delay of 39 days caused in filing these appeals stand condoned.

8. According to Form No. 35 available on record, assessee filed first appeal on 27.02.2024 against the assessment order dated 22.05.2023 beyond the period of limitation along with the prayer to condone the delay caused in filing the first appeal on the ground that the assessment order dated 22.05.2023 came to the knowledge of the assessee only when he received the penalty order on 23.02.2024. Further, assessee pleaded his old age, illiteracy, and lack of any knowledge of email etc. as the cause for delay in filing first appeal before Ld. CIT(Appeals). However, learned CIT(Appeals) rejected assessee's prayer for condonation of delay in filing the first appeal.

9. 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 adversarial 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 and condone the delay caused in filing the appeal before first appellate authority.

10. We are further surprised to note that after refuting assessee's prayer for condonation of delay, learned CIT(Appeals) proceeded to decide the appeal on merit, which is contrary to the law. The law on the subject is well settled that unless the delay is condoned, the appeal does not come into existence legally, and in such absence, the court is wholly without jurisdiction to hear or decide the same on merit.

11. Hon'ble Supreme Court in *Union of India & Anr. v. Jahangir Byramji Jeejeebhoy (D)*, 2024 SCC online SC 489, has observed that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity, that the length of delay is a relevant matter, which the court must take into consideration while considering whether the delay should be condoned or not. The Hon'ble Apex Court has been pleased to hold that while considering the plea for condonation of delay,

the court must not start with merits of the main matter. However, the courts are required to condone delay on the bedrock of the principle that adjudication of a *lis* on merits is seminal to justice dispensation system.

12. Thus, the issue of condonation of delay in the proceedings has to be decided at the first instance before delving into the merits of the case. However, if the delay is condoned, there is no bar on the courts to proceed with the case and decide the same on merits on the very day. In the same manner, if the prayer for condonation of delay is rejected, the proceedings will automatically fail. It is, thus, settled that without condoning the delay in filing the appeal, the appellate authority lacks jurisdiction to entertain such time barred appeals.

13. In the aforesaid circumstances, we deem it just and appropriate to remit the matter back to the file of learned CIT(A) for adjudication afresh on merits after affording an opportunity of hearing to the assessee. The assessee is also directed to be cooperative in attending the hearings and making submissions before the learned CIT(A) for the expeditious and effective disposal. Needless to say, that learned CIT(A) shall ensure the observance of the principles of natural justice. The appeal is, thus, liable to be allowed for statistical purposes.

ITA No. 464/Agr/2025:

14. This appeal challenges the sustenance of penalty imposed u/s. 271(1)(c) of the Act, which is consequential to the quantum additions made in the assessment order. Since the issue relating to the quantum addition has been remanded back to the file of the learned CIT(Appeals) for fresh adjudication on merits, and as the present appeal pertains to the penalty imposed under section 271(1)(c) of the Act, which is consequential to the said quantum addition, we consider it appropriate to remit this penalty matter also to the file of the learned CIT(Appeals) for adjudication afresh in accordance with law. Accordingly, this appeal is also liable to be allowed for statistical purposes.

15. In the result, both the appeals ITA Nos. 463 & 464/Agr/2025 are allowed for statistical purposes.

Order pronounced in the open court on 18.12.2025.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER

Dated: 18.12.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra