

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA (SMC) BENCH, AGRA**

BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

**ITA No. 437 & 438/Agr/2025
Assessment Year: 2017-18**

Rajeev Chauhan, Gadiwan, Mainpuri (UP).	Vs.	Income Tax Officer, Ward 4(2)(5), Mainpuri.
PAN :ALIPC4877G		
(Appellant)		(Respondent)

Assessee by	Sh. Rajeev Kumar Kulshreshtha, Adv.
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	17.12.2025
Date of pronouncement	17.12.2025

ORDER

Both these appeals have been filed by assessee against separate orders of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 07.08.2025 for the Assessment Year 2017-18.

2. Since, ITA No. 438/Agr/2025 pertains to penalty u/s. 271AAC of the Income-Tax Act, 1961 ("the Act" for short), which is consequential to the assessment order, both these appeals are being disposed of by this consolidated order for the sake of convenience and brevity. ITA No. 437/Agr/2025 is taken as a lead case.

3. Brief facts of the case are, the assessee filed return of income for the assessment year 2017-18 on 09.10.2017, declaring total income at Rs.6,24,720/-. Case was selected for scrutiny under CASS due to an abnormal cash deposit during the demonetization period. Accordingly notices u/s. 143(2) and 142(1) of the Act were issued and served on the assessee. In response, none appeared on behalf of the assessee nor filed any document. Due to failure on the part of the assessee to file the relevant documents to substantiate the cash deposits during demonetization period, the Assessing Officer proceeded to make addition u/s. 69A of the Act to the extent of cash deposit of Rs.28,14,500/-. Accordingly, assessment was completed u/s. 143(3) of the Act. Further, penalty proceedings u/s. 271AAC of the Act were initiated and several notices were issued to the assessee. Since, there was no response from the assessee, the Assessing Officer imposed a penalty of Rs.2,17,420/- u/s. 271AAC of the Act. Further, the Assessing officer applied the tax rate u/s. 115BBE of the Act.

3. Aggrieved with the above orders, assessee filed appeals before NFAC, Delhi. Assessee filed relevant appeals before learned CIT(A) with the delay of 387 days and the assessee filed the reasons in his written submissions, which is reproduced by learned CIT(A) at pages 4 & 5 of

the appellate order. After considering the submissions, learned CIT(A) was not satisfied with the reasons for delay. He dismissed the appeal without condoning the delay.

4. Aggrieved with the above order, assessee is in appeal before ITAT, raising following grounds of appeal :

“(1) यह है कि अपीलकर्ता पर मूल आदेश एक पक्षीय में सन्देह के आधार धारा 69A का प्रावधान लॉगू किया गया है जबकि बैंक में नकद जमा की प्रमाणित फर्म मैसर्स ओउम नमः शिवाय ट्रेडिंग मैनुपुरी के पूँजी खाते से है जिस कारण से धारा 271AAC (1) को पेनल्टी का प्रावधान लॉगू नहीं होता है।

(2) यह है कि पूर्व अधिवक्ता की लापरवाही के कारण अपीलकर्ता पर पेनल्टी आरोपित नहीं की जा सकती है।

(3) यह है कि अपीलकर्ता की मूल अपील अपील में पैन्डिंग होने के कारण अपील रिमाण्ड होने योग्य है।

(4) यह है कि अपीलकर्ता के शपथ पत्र व पूर्व अधिवक्ता की लापरवाही व जानबूझ कर व निष्क्रियता के कारण विलम्ब से दाखिल अपील क्षमा योग्य है क्योंकि पुराने अधिवक्ता दीपक अग्रवाल का आयकर विवरणी पत्र पर E-mail Add. पड़ा था।“

5. At the time of hearing, learned AR of the assessee submitted that the assessee has not been issued any notice for the reason that the same were sent to the wrong email Id. Further with regard to delay in filing the appeal before learned CIT(A), he filed affidavit along with the

reasons for such delay. In the reasons, learned AR submitted that the case of the assessee was handled by another advocate and due to his negligence, the assessee was ill informed about the original process and timely advice for filing the appeal before the Id. CIT(A). He prayed that the delay is not intentional on the part of the assessee and prayed that the case may be remanded back to the Assessing Officer.

6. Further, with regard to penalty, he submitted that the penalty was levied due to non submission of documentary evidences. He prayed that all the evidences are available with the assessee.

7. On the other hand, learned DR objected to the submissions of learned AR and submitted that the delay is substantial. Same cannot be condoned. In this regard he relied on the decision in the case of RB Ramlingam Petitioner vs RB Shavaneshwari (2009)(SC2)GJX 106 (SC), CIT vs. Ram Mohan Kabra (2002) 257 ITR 773 (P&H) and Surinder Kumar Boveja vs. CWT (2006) 287 ITR 52 (Del).

8. Considered rival submissions and material placed on record.

9. After considering the facts available on record, I observe that the reasonable cause for not filing the appeal before CIT(A) within time is submitted before me in the form of affidavit and further it is brought to my notice that the assessment notices were issued on wrong mail Id. Therefore, considering the factual matrix available on record, I am

inclined to condone the delay before learned CIT(A). In my considered view to meet the ends of justice, I am inclined to remit both the issues of de novo assessment as well as penalty to the file of Assessing Officer with a direction to complete the assessment after giving proper opportunity of being heard to the assessee. At the same time, I direct the assessee also to cooperate with the lower authority without taking any unnecessary adjournments.

10. In the result, appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open court on 17.12.2025 and reduced in writing on this 24th day of December, 2025.

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Dated: 24.12.2025

*aks/-

Copy forwarded to:

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

Asst. Registrar, ITAT, Agra