

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.202/Ind/2025
Assessment Year:2017-18

Kalpana Narware, Chicholidhana, Bhainsdehi, Betul	<u>बनाम/</u> Vs.	ITO, Betul
(Assessee/Appellant)		(Revenue/Respondent)
PAN: APIPN2225D		
Assessee by	Shri Gagan Tiwari, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	06.01.2026	
Date of Pronouncement	16.01.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal dated 26.08.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 25.10.2019 passed by learned ITO, Betul ["AO"] u/s 144 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2017-18, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The registry has informed that the present appeal is delayed by 112 days and therefore time-barred. Ld. AR for assessee submitted that the assessee is a lady who was having pregnancy at the relevant time and hence there occurred delay in filing present appeal. The assessee has also placed before bench the copies of medical reports. In view of this situation, Ld. DR for revenue does not have any objection against condonation of delay. We find that the assessee has explained "sufficient cause" for occurrence of delay, accordingly the delay is condoned taking into account the facts of case and the assessee's solemn averments in light of ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387*** having settled the law long back that all such "technical aspects" must make a way for the cause of "substantial justice".

3. Ld. AR for assessee next pointed out that there was also a delay of 508 days in filing first-appeal before CIT(A) and although the assessee submitted before CIT(A) that she was misguided by her counsel and hence there was a delay in filing appeal but the CIT(A) did not consider assessee's submission judiciously and dismissed assessee's appeal on the ground of time-barred. Ld. AR submitted that the assessee has filed following "Interlocutory Application" before this bench seeking condonation of delay in filing first-appeal duly supported by an affidavit:

Serial No. 22725232P
Date 1. 0. OCT 2025 (1)

**BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL BENCH
AT INDORE**

**ITA 202/IND/2025
(A.Y. - 2017-18)**

NOTARY
* **NTENDRA BOHARE**
INDORE (M.P.)
43999/2025
24/03/2030
* **MENT OF INDIA**

Appellant : Kalpana Narware

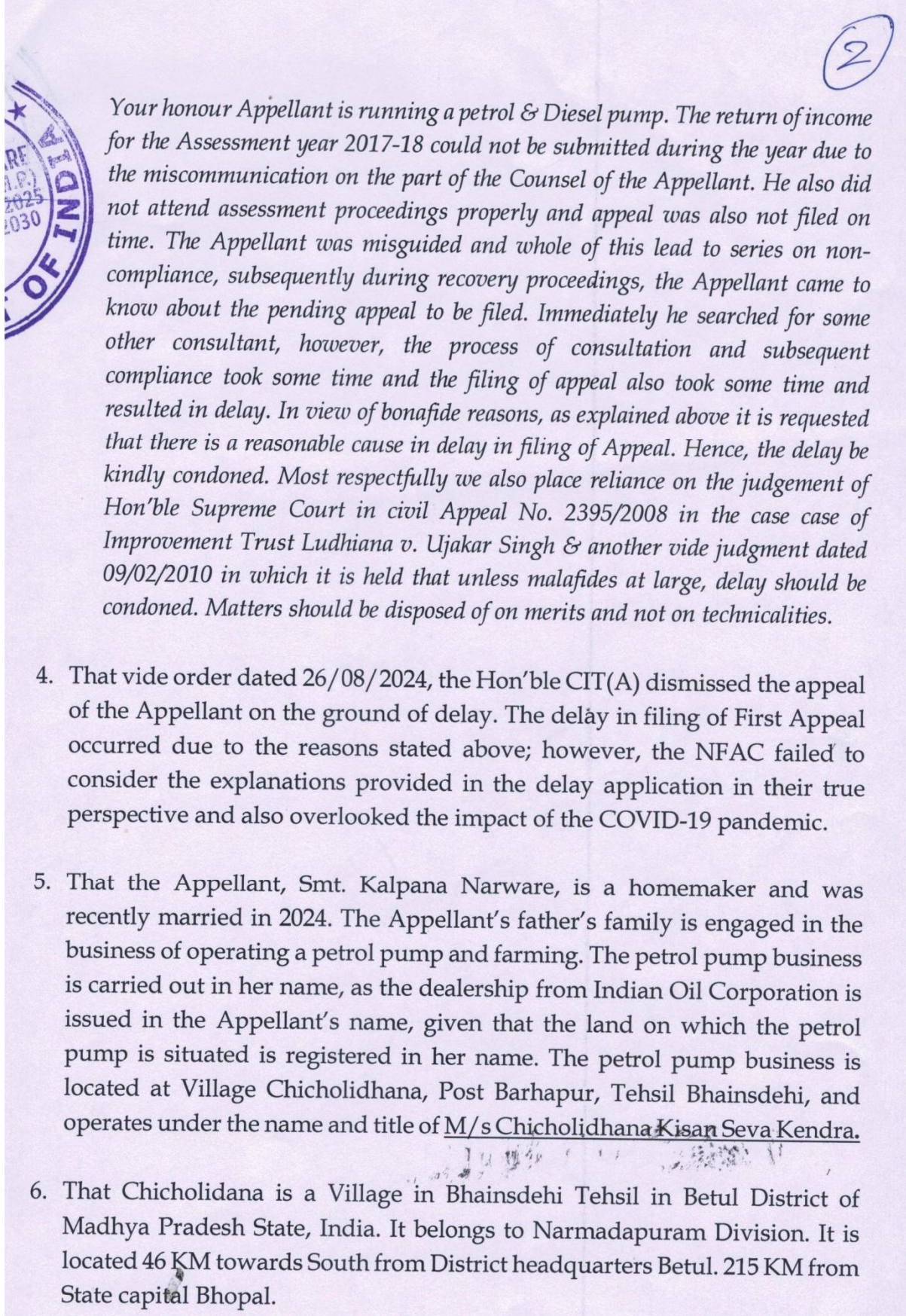
V.

Respondent : Income Tax officer, Betul, (Madhya Pradesh)

**INTERLOCUTORY APPLICATION FOR CONDONATION OF DELAY IN
FILING FIRST APPEAL BEFORE THE NATIONAL FACELESS APPEAL
CENTRE, NEW DELHI AGAINST THE ORDER DATED 25.10.2019
PASSED BY THE INCOME TAX OFFICER, BETUL**

May it Please Your Lordships,

1. That the Applicant-Appellant has filed present Income Tax Appeal before this Hon'ble Income Tax Appellate Tribunal under section 253 of Income Tax Act, 1961 against the impugned order dated 26/08/2024, passed by the Ld. National Faceless Appeal Centre, New Delhi for Assessment year 2017-18 in Appeal No. NFAC/2016-17/10018748 containing DIN & Letter No. ITBA/NFAC/S/250/2024-25/1067981867 (1).
2. That the Present Appeal was filed before this Hon'ble Tribunal on 20/02/2025 and the Appeal was registered as Income Tax Appeal No. 202/IND/2025.
3. That it is submitted that there was a delay of 508 days in filing First Appeal before National Faceless Assessment Centre, New Delhi against the order dated 25/10/2019 passed u/s 144 of the Act by the Ld. Assessing officer i.e. Income Tax officer, Betul. That at the time of Filing Appeal before the NFAC, New Delhi the Appellant on condonation of Delay has given following reason :--



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7. That the case of the Appellant was re-opened by the Income Tax Officer, Betul, under Section 143(3) of the Act for the purpose of complete scrutiny. The Appellant's case was selected for scrutiny based on information gathered during the online verification phase under "*Operation Clean Money*." It is submitted that the Income Tax Department compiled a list of assessee who had deposited substantial amounts of cash in their bank accounts during the demonetization period but had not filed their income tax returns.
8. That on the basis of above the Case of the Appellant was selected for Scrutiny u/s 143 (3) of the Act and the Appellant during the Assessment proceedings filed its response on 24/09/2019 & 26/09/2019 and submitted that Cash deposited during Demonetization are part of sale made on regular Basis however Ld. AO did not consider such response filed along with documentary Evidences and passed the Assessment order dated 25/10/2019 wherein entire Cash deposited by the Appellant was treated as unexplained money u/s 69A of the Act and entire turnover was taxed @ 3%, thereby making addition of Rs 1,02,14,380/-.
9. It is submitted that during the assessment proceedings, the Appellant had provided all relevant documents to its Chartered Accountant, Shri Anil Bangad, for ensuring proper compliance in response to the notice. However, despite repeated follow-ups, the Counsel failed to respond to the notice in a timely manner. The responses were eventually filed on 24.09.2019 and 26.09.2019, but the same were not duly considered by the Ld. Assessing Officer as stated above.
10. That the Appellant and her family reside in a small village chicholidana and are not well-versed with the procedures and technicalities of the Income Tax law. For every compliance-related matter, they rely on their Chartered Accountant, who is based at Betul, approximately 45 km away from the Appellant's village. Although the Appellant had provided all necessary details in a timely manner, the CA failed to file the responses within the stipulated time.
11. That, after the passing of the impugned assessment order, the brother of Appellant who handle family business of petrol pump had contacted Chartered Accountant, who initially informed her that the matter could be

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rectified and assured her that he would file a Rectification Application under Section 154 of the Income-tax Act, 1961, before the Income Tax Officer and would also discuss the matter with the said officer. However, in the month of November, the Chartered Accountant informed the Appellant that an appeal against the impugned order needed to be filed before the Commissioner of Income Tax (Appeals), Bhopal, and further stated that he would be unable to file the said appeal, advising her instead to engage a Chartered Accountant based in Bhopal.

12. That, thereafter, the Brother of the Appellant appointed Shri Kedar P. Shukla for handling matter, and in the month of November 2019, he handed over all the original documents, including the purchase list, vouchers, ledger account of Indian Oil, original passbook for the entire year, and other relevant documents to the said Chartered Accountant, Shri Kedar P. Shukla at his Bhopal office.

13. That, after collecting all the documents from the Brother of the Appellant, Shri Kedar P. Shukla assured him that the appeal would be filed. Thereafter, the brother of the Appellant continuously followed up with him for updates, and Shri Shukla repeatedly informed that the appeal had already been filed and assured that the matter would be resolved in due course.

14. That, thereafter, in the month of May, 2020 various notices under Sections 271A, 271B, and 271(1)(d) of the Income-tax Act, 1961, were issued to the Appellant. All such notices were forwarded to Shri Kedar P. Shukla, who, in response, submitted replies through e-mail to the Income Tax Officer, Betul. Thereafter, the Appellant's brother continuously requested Shri Kedar P. Shukla to provide the acknowledgment of the appeal, as the Income Tax Officer, Betul, had been asking for the same in order to keep the penalty proceedings in abeyance. However, on each occasion, Shri Kedar P. Shukla informed that the appeal had already been filed but the acknowledgment had not yet been received due to the disruption of regular office functioning during the COVID-19 pandemic. Copy of Whatsapp Chat between brother of Appellant & Shri Kedar P. Shukla is marked as **Annexure (A/1)**. Copy of Such Email filed by Shri Kedar P. Shukla is marked as **Annexure (A/2)**

15. That, the Appellant and her family were residing at Chicholidana Village, which is situated at a distance of approximately 225 kilometres from Bhopal.

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Due to the COVID-19 pandemic and the consequent restrictions imposed from March 2020 onwards, the Appellant and her brother, who was looking after all the income-tax matters, were unable to travel to Bhopal to meet Shri Kedar P. Shukla. That during the telephonic conversations, he always assured the Appellant and his brother that the matter would be resolved.

16. That, thereafter, in the month of January 2021, the brother of Appellant received a call from an Inspector of the Income Tax Department for pending demand and Income Tax Department also issued a notice dated 23/01/2021 (ITBA/RCV/F/17/2020-21/1030038061 (1)). The brother of the Appellant then informed the Department that the appeal had already been filed. Subsequently, he contacted one of his relatives, who is also in the Income Tax Department. Upon checking the Departmental portal, the said relative discovered that no appeal had, in fact, been filed against the assessment order. True Copy of Demand Notice dated 23/01/2021 is marked as Annexure (A/3)

17. That, thereafter, the brother of the Appellant made several attempts to contact Shri Kedar P. Shukla; however, his phone remained unreachable. Then the Brother of Appellant travelled to Bhopal and discovered that Shri Kedar P. Shukla's office was closed and that he was not a Chartered Accountant, as had been represented by him. The Appellant & his Brother thereafter made several attempts to contact him, but received no response. The brother of the Appellant also visited his office in the hope of meeting him. It was only in March 2021 that the office of Shri Kedar P. Shukla's was open, and the brother of the Appellant was able to collect the entire original file which includes Original Purchase Voucher, sale list, balance Sheet and other important documents. Thereafter, at the suggestion of his relative in the Income Tax Department, the brother of the Appellant engaged the services of CA Amit Jain in Bhopal, who subsequently filed the appeal on 15/04/2021.

18. That the Appellant and her family were completely misled by Shri Kedar P. Shukla, who falsely represented that he was a Chartered Accountant and that the appeal had been filed. Relying on his assurances, the Appellant and her family did not take any independent action to file the appeal, which directly resulted in the delay in preferring the present appeal. Further,

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during the entire period, the COVID-19 pandemic was ongoing, which restricted travel and access to offices, thereby contributing to the delay.

19. That the Appellant and her family were not well-versed with the procedures of the Income Tax Department, as this was the first instance in which the Appellant's case had been selected for scrutiny. The Appellant had at all times complied with the law from time to time as suggested by Its Regular CA which including Filing of Return on yearly basis, there was no evasion of tax, and most importantly all cash deposited by the Appellant during demonetization period represented sales made during the demonetization period. Further, during the entire period, the COVID-19 pandemic was ongoing, which restricted travel, and the office of Shri Kedar P. Shukla was situated in Bhopal, making it difficult for the Appellant and her family to personally follow up.

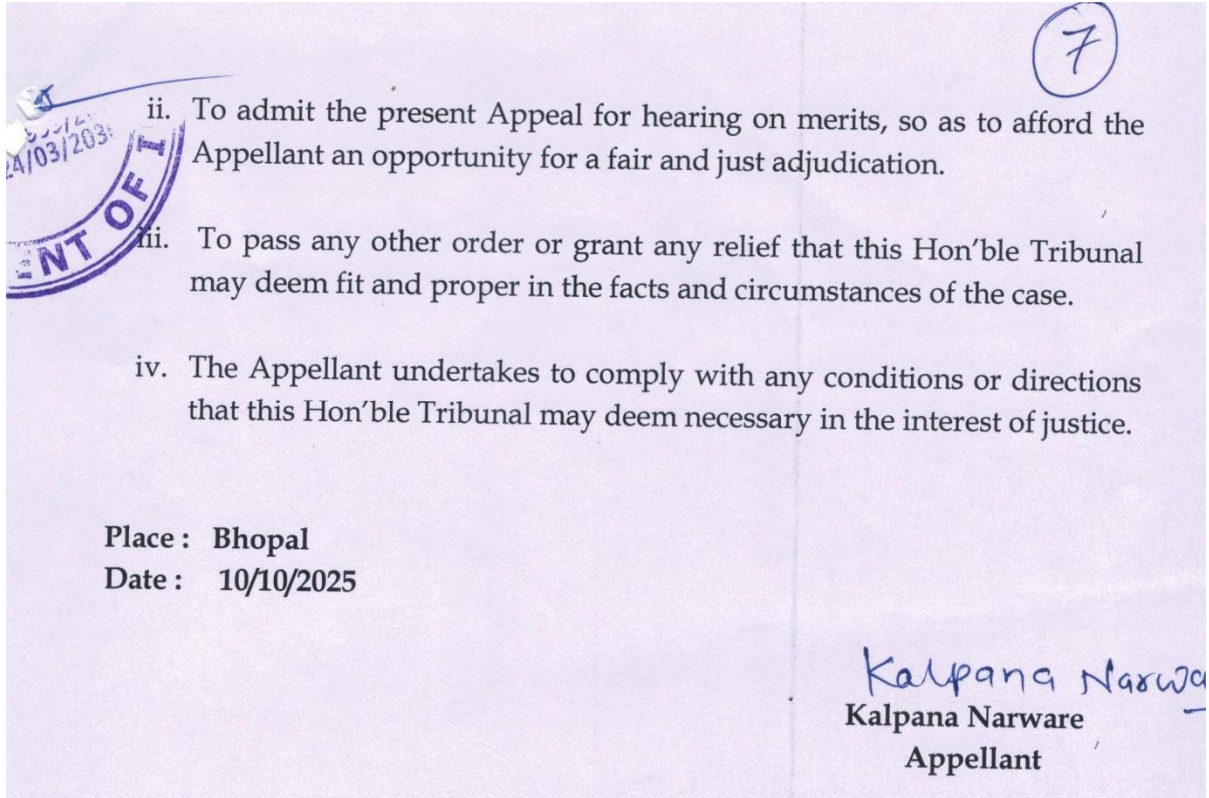
20. In view of the facts and circumstances detailed hereinabove, it is respectfully submitted that the delay in filing the present First Appeal was caused by exceptional and bona fide reasons beyond the control of the Appellant, including reliance on a Chartered Accountant who had misrepresented that the appeal had been filed, the disruptions arising from the COVID-19 pandemic, and the Appellant's and her family's unfamiliarity with the procedures of the Income Tax Department. The delay was neither intentional nor deliberate. In the interest of justice, it is, therefore, most humbly prayed that this Hon'ble Tribunal may kindly condone the delay in filing First Appeal before National Faceless Appeal Centre and admit the Appeal for adjudication on its merits.

An Affidavit of Appellant is attached herewith

PRAYER

In light of the foregoing submissions, the Petitioner most respectfully prays for the following reliefs:

- i. To kindly condone the delay in filing the First Appeal before National Faceless Appeal Centre, New Delhi in light of facts & Circumstances mentioned above in the Interlocutory Application;



4. The averments made by assessee in above application, which are self-explanatory and which do not require repetition, were discussed. Further, the Ld. AR has also filed the prints-out of mobile/whatsapp chat which took place between assessee and earlier counsel to demonstrate that the assessee paid fee to counsel and made enquiries of filing of appeal to CIT(A) from time to time. The whatsapp chat filed by assessee prima facie shows that the assessee exercised due diligence for filing of first appeal to CIT(A). The Ld. DR for revenue left the matter to the wisdom of bench. We have considered the averments made by assessee in the application and also the whatsapp chat filed by assessee to show the negligence on the part of counsel and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing first-appeal to CIT(A) in time.

Furthermore, the assessment-order was passed by AO on 25.10.2019 and the assessee was having 30 days's statutory time expiring on 25.11.2019 for filing appeal to CIT(A) as against which the assessee actually filed appeal on 15.04.2021 after a delay of 508 days. But, however, we find that out of total period from 25.11.2019 to 15.04.2021, the substantial period of 15.03.2020 to 15.04.2021 was during Covid-19 pandemic and the Hon'ble Supreme Court also granted extension in ***Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications*** for filing of appeals w.e.f. 15.03.2020 under all laws. Therefore, considering the entire conspectus of matter, the CIT(A) ought to have judiciously considered the reasoning explained by assessee. We find that section 249(3) empowers the CIT(A) to admit an appeal after expiry of prescribed time, if there is a sufficient cause for not presenting appeal within prescribed time. Similarly, the section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a sufficient cause for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in landmark decision in **Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Therefore, taking a judicious note of the submissions made by assessee to CIT(A) in the light of provisions of section 249(3) r.w.s. 253(5) of the Act and the decision of

Hon'ble Supreme Court, we condone the delay occurred at the stage of filing first-appeal before CIT(A).

5. On merit of case, Ld. AR for assessee submitted that the assessee has made part-participation during assessment-proceeding leading the AO to pass ex-parte order u/s 144 but the assessee has collected all evidences and compiled all details for making an effective representation before AO, therefore the present matter must be remanded to the file of AO. Ld. DR for revenue submitted that he has no objection against remand but the bench must give a strict direction to assessee for participation before AO. Accordingly, considering the facts submitted in Interlocutory Application; having regard to the principle of natural justice and also bearing in mind that no prejudice would be caused to revenue if the present matter is restored at the level of AO for an appropriate adjudication in accordance with law, we condone the delay in first-appeal and also remand this matter back to the file of AO for adjudication afresh, at the risk and responsibility of assessee. The AO shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

6. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in open court on 16/01/2026

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 16/01/2026

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore