

IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
(Conducted Through Hybrid Mode)

**Before: Shri Siddhartha Nautiyal, Judicial Member
And Shri B.M. Biyani, Accountant Member**

**ITA No. 254/IND/2025
Assessment Year: 2013-14**

Virendra Kumar Namdev 41, Sukhdev Nagar, Madhya Pradesh-452001 PAN No: ADFPN4305B (Appellant)	Vs	The CIT(A) National Faceless Appeal Centre (NFAC) (Respondent)
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Appellant by : Shri Pranay Goyal, C.A.
Respondent by : Shri Ashish Porwal, Sr. D.R.

Date of hearing : 18-12-2025
Date of pronouncement : 21-01-2026

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

The present appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (in short "NFAC") Delhi vide order dated 02-05-2024 passed for A.Y. 2013-14.

2. The assessee has raised the following grounds of appeal:

1) That the Ld. CIT(A) erred to sustain the assessment order passed by the Ld. A.O. dt. 27.05.2023, such action of the Ld. CIT(A) is bad in law and on the fact. As the order have been passed without considering the fact that the appellant had duly complied with assessment proceedings, however he was not able to participate in the first appeal proceedings.

2) That, the Ld. CIT(A) erred to dismiss the appeal filed before him, ignoring the adjournment application filed by the appellant, such action of the Ld. CIT(A) is against the principal of natural justice and opportunity of being heard.

3) The Ld. CIT(A) erred in sustaining the fact that the re-opening of the case is time-barred for AY 2013-14. Therefore, any order based on a time-barred notice is void ab initio and liable to be struck down.

4) That Ld. CIT(A) erred in sustaining the fact that the addition of Rs. 69,31,595/- is bad in law and on facts as the same has been made considering the total sales made to M/s Shree Vardhman Traders to be bogus and applying 5% commission rate on the total transaction.

5) That, the Ld. CIT(A) erred to consider the fact that the appellant has made sales of Rs. 8,42,98,399 to M/s Vardhman Traders during the year under consideration as against the sales assumed to be Rs. 13,86,31,900,

6) That the Ld. CIT(A) erred in sustaining the fact that the Ld. AO has failed to conduct a due and proper inquiry and verification of the facts before concluding the assessment. The order has been passed in an arbitrary and mechanical manner, without giving adequate consideration to the explanations, submissions, and documentary evidence provided by the appellant.

7) That the Ld. CIT(A) erred in sustaining the fact that the addition of Rs. 69,31,595 is bad in law and on facts as the same is made only on the basis of assumptions, conjectures and ignoring the detailed documentary evidence submitted before the Ld. AO to prove the genuineness of the sales made.

8) The appellant craves leave to add, amend, modify and/or add new grounds of appeal before the appeal is heard and disposed off.

3. The brief facts of the case are that the assessee is an individual engaged in the business of wholesale trading of cotton and cotton bales under the name and style of M/s Charvi Cot Fibers and had also earned interest income during the year under consideration. The assessee filed his return of income for Assessment Year 2013–14 on 06.03.2013 declaring a total income of ₹2,02,070/-. Subsequently, on the basis of an enquiry conducted by the

Investigation Wing, DDIT (Inv.), Indore, in the case of M/s Shree Vardhman Traders, the Assessing Officer observed that the assessee had facilitated large bank transactions of that concern and had provided bogus accommodation entries. Based on the investigation report, the Assessing Officer formed a belief that the assessee had entered into alleged bogus transactions aggregating to ₹13,86,31,900/- and had earned commission income at the rate of 5%, amounting to ₹69,31,595/-, which had escaped assessment. Accordingly, proceedings under section 147 of the Act were initiated against the assessee.

4. During assessment proceedings, the Assessing Officer was not convinced with the explanations furnished by the assessee and held that the assessee had acted as an accommodation entry provider to M/s Shree Vardhman Traders. Without accepting the assessee's explanation regarding genuineness of sales and business transactions, the Assessing Officer completed the assessment under section 147 read with section 144B of the Act on 27.05.2023 by estimating commission income at 5% of the alleged transaction value of ₹13,86,31,900/- and made an addition of ₹69,31,595/- as unexplained income, thereby assessing the total income at ₹69,31,595/-.

5. Aggrieved by the assessment order, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals) and raised several grounds of appeal. The assessee challenged the validity of reopening on the ground that the reassessment proceedings were time-barred and hence void ab initio. It was further contended that the addition of ₹69,31,595/- was contrary to the evidence on record, arbitrary and unjustified, and had been made merely on assumptions, conjectures and surmises. The assessee

specifically pleaded that the Assessing Officer erred in treating the sales made to M/s Shree Vardhman Traders as bogus without rejecting the books of account and without pointing out any specific defect therein. It was also contended that the addition of commission income at a flat rate of 5% was made without any basis and without appreciating the detailed documentary evidences furnished to prove the genuineness of the sales transactions. Another grievance raised by the assessee was that the assessment was framed on the basis of material gathered behind the back of the assessee without affording any opportunity of cross-examination or confrontation. Without prejudice, the assessee also contended that the Assessing Officer had wrongly assumed the total sales to M/s Shree Vardhman Traders at ₹13,86,31,900/-, whereas the actual sales during the year were only ₹8,42,98,399/-.

6. During the appellate proceedings before the CIT(Appeals), several notices were issued through the ITBA portal providing opportunities to the assessee to file written submissions and supporting evidence. However, the assessee failed to respond to the notices and did not file any submissions despite multiple opportunities. In view of the persistent non-compliance and non-prosecution of the appeal, the CIT(Appeals) proceeded to decide the appeal ex parte on the basis of material available on record. While adjudicating the grounds of appeal, the CIT(Appeals) observed that the assessee had not effectively pursued the appeal and had failed to place any material on record to controvert the findings of the Assessing Officer. Relying on various judicial precedents, including the decision of the Hon'ble Supreme Court in CIT v. B.N. Bhattacharjee, the CIT(Appeals) held that filing of an appeal alone is not sufficient and that an appeal must be effectively prosecuted.

7. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

8. Application for condonation of delay of 218 days in filing of the present appeal:

9. Before us, the assessee has filed application for condonation of delay of 218 days in filing of the present appeal before us. In the application, the assessee has explained that he is engaged in the business of wholesale trading of cotton and cotton bales under the trade name M/s Charvi Cot Fibers and had duly participated in the assessment proceedings initiated under section 147 of the Act pursuant to an enquiry conducted by the Investigation Wing in the case of Shree Vardhman Traders. The assessee has submitted that during the assessment proceedings, the assessee responded to notices issued under sections 143(2) and 142(1); however, the Assessing Officer ultimately passed an assessment order under section 147 making an addition of ₹69,31,595/-.

10. Aggrieved by the assessment order, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals). However, the assessee has explained that he could not effectively participate in the first appellate proceedings due to compelling personal circumstances. It has been specifically stated that the assessee's daughter is a differently abled child suffering from a serious brain-related disease, which requires constant medical attention, care and supervision. Due to the continuous medical treatment and the personal responsibility of looking after his daughter, the assessee was unable to devote adequate time and attention to the appellate

proceedings before the CIT(A). As a result, the appeal before the CIT(A) could not be properly prosecuted and was decided against the assessee. The assessee has also filed supporting medical certificates.

11. The assessee has further stated that for the very same reasons, he was unable to file the present appeal before the Tribunal within the prescribed period of 60 days from the date of receipt of the order of the CIT(A). The delay of 218 days, according to the assessee, was neither intentional nor deliberate but occurred due to circumstances beyond his control. It has been emphasized that the assessee is a law-abiding citizen and the delay was caused solely due to unavoidable and compelling personal hardship. The assessee has pleaded that technical considerations should not defeat substantial justice and has relied upon the settled judicial principle that matters should ordinarily be decided on merits rather than being dismissed on technical grounds of limitation.

12. Before us, the learned Counsel for the assessee reiterated the contents of the application for condonation of delay and submitted that due to the aforesaid circumstances, the assessee could not get an effective opportunity of hearing to present his case on merits before the tax authorities. The learned Counsel submitted that in the interest of justice, the delay deserves to be condoned and the matter may be restored to the file of the Assessing Officer for de-novo consideration after granting the assessee a proper and reasonable opportunity of being heard.

13. We have heard the rival contentions and perused the material on record. We find that the delay of 218 days in filing the present appeal has been duly

explained by the assessee by placing on record the circumstances which prevented him from pursuing the appellate remedies within the prescribed time. The explanation furnished shows that the delay was caused due to compelling personal reasons arising from the serious medical condition of the assessee's differently abled daughter, which required continuous care and attention. In our considered view, the delay cannot be said to be deliberate, intentional or on account of negligence. It is a settled principle of law that when sufficient cause is shown, a liberal approach should be adopted in the matter of condonation of delay so as to advance substantial justice.

14. Accordingly, in the interest of justice, we condone the delay of 218 days in filing the appeal and admit the appeal for adjudication on merits.

15. We further note that both before the Commissioner of Income-tax (Appeals) as well as thereafter, the assessee could not effectively present his case on merits due to the aforesaid circumstances. Considering the totality of facts and circumstances of the case, and in order to afford the assessee a fair and effective opportunity of being heard, we deem it appropriate to restore the matter to the file of the Assessing Officer for de-novo consideration.

16. The Assessing Officer is directed to examine the issues afresh in accordance with law after granting adequate and reasonable opportunity of being heard to the assessee and after considering all submissions and evidences that may be furnished. The assessee is also directed to fully cooperate in the de-novo proceedings and place all relevant material on

record. Thus, the matter is restored to the file of the Assessing Officer for fresh adjudication in accordance with law.

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

Order pronounced as per Rule 34 of I.T.A.T. Rules 1963 on 21-01-2026

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER
Indore: Dated 21/01/2026

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order

Assistant Registrar
Income Tax Appellate Tribunal,
Indore Bench, Indore