

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(PHYSICAL COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 603/Asr/2025
Assessment Year: 2015-16

Sunita Tuli
Tuli Filling Station, Kalanaur,
Pathankot, Gurdaspur 145220
Punjab

Vs.

Income Tax Officer,
Ward-1, Pathankot

[PAN: AKXPT 3634L]

(Appellant)

(Respondent)

Appellant by : Sh. J. S. Bhasin, Adv.
Respondent by : Sh. Charan Dass, Sr. D. R.
Date of Hearing : 20.01.2026
Date of Pronouncement : 22.01.2026

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the Id. CIT (A) NFAC, Delhi dated 04.02.2025 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC, Delhi passed u/s 147 r.w.s. 144 of the Act, 1961 dated 16.03.2023.

2. **Condonation of delay:** It is pointed out by the registry that the appeal is filed belatedly by 94 (*ninety-four*) days. The assessee has prayed for condonation of delay in presenting the appeal whereby it is stated that the appellate order has been uploaded in portal probably on 4th Feb, 2025, but due to various *medical ailments* suffered by the assessee on account of old age, and also due to lack of proper legal guidance, the appellant could not take timely steps to file the appeal before the Hon'ble Tribunal. It is also stated that the assessee is a *senior citizen* without any regular income and subsequent to the death of her husband, she never had the guidance of any legal practitioners and she herself was totally unaware of the technical aspect relating to income tax matters. After receiving a fresh notice u/s 142(1) of the Act dated 07.07.2025, she has approached a lawyer, who had advised her to file the present appeal before the Hon'ble Tribunal, against the order of the Ld. first appellate authority, which has been belatedly filed *by 94 days*. She has prayed for condonation of delay in absence of any willful or intentional default on her part, and requested for admission of the appeal to be heard on merits.

3. The Id. DR has no objection.

4. Considering the fact that the assessee is a *senior citizen* and a widow and has no legal assistance and admittedly, without any knowledge on technical aspect of the computer system , we find that she had *reasonable cause*, being unable to file the

appeal within the stipulated time and we consider the default is neither willful nor intentional , and as such, we condone the delay of 94 days and admit the appeal to be heard on merits.

5. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

- “1. *The Ld. CIT(A) erred in law in not adjudicating the specific ground taken by the appellant challenging the validity of the notice issued by JAO u/s. 148 dated 31.03.2022, which is illegal and void in view of CBDT Notification No.18/2022 dated 29.03.2022 issued in terms of sec 151A of the Act, mandating such notice to be issued only in faceless manner, as categorically held by Hon'ble P & H High Court in the case of Jatinder Singh Bhangu vs UOI & Ors dated 19.07.2024 in CWP-15745-2024 (2024) 467 ITR 52 (P&H) and followed in its another order dated 29.07.2024 in CWP-21509-2023 in the case of Jasjit Singh vs UOI & Ors and connected cases.*
2. *The Ld. CIT(A) erred in failing to adjudicate the specific legal ground that the reassessment was barred by limitation as per sec 149(1)(b), the total cash deposits in two banks actually being Rs.49,76,500/- i.e. below Rs.50 lacs, against Rs.55,89,500/- incorrectly assumed by AO, by wrongly taking the deposits in one account at Rs.15,13,000/- whereas actual deposits in that account were only Rs.9,00,000/-. Thus, the reopening beyond three years was time-barred, and the assessment deserves to be annulled.*
3. *That the reasons recorded by AO and approval granted by PCIT u/s.151 on incorrect facts, by assuming cash deposits at Rs.55,89,500/- against actual deposits of Rs.49,76,500/- is patently mechanical and illegal, as recently held by Hon'ble Bombay High Court in the case of Tele Performance Global Services (P.) Ltd. v. ACIT [2024] 298 Taxman 769 (Bom) (HC)”*

6. Brief facts of the case are that no return of income has been filed by the assessee for the year under appeal. On the basis of information that the assessee has deposited

the cash amounting to *Rs.55.89 (fifty-five) lakhs* in her two Bank A/c's maintained with *HDFC Bank and Central Bank of India*, proceedings were initiated vide notice *u/s 148 dated 31.03.2022 (as per procedure)*.

7. During the course of assessment proceedings, the assessee has explained the cash deposits in bank to have been sourced out of some business transaction, relating to purchase and sales. It was further submitted that the total deposit in HDFC Bank A/c No. xxxxxx0152 was Rs. 40.76 lacs and the deposits with *Central Bank of India A/c No. xxxxx0203* was only 9 lacs (*which is wrongly stated by the AO at Rs. 15,13,000/-*). Ultimately, the assessment has been completed on a total *income of Rs. 55.82 lacs u/s 144/144 of the Act*.

8. The matter carried in appeal before the Id. first appellate authority has been dismissed by the Id. CIT(A) by setting aside the assessment u/s 147 r.w.s. 144 by observing as follows:

“Hence, I set aside the assessment made under section 147r.w.s144 of the Income Tax Act, 1961 and refer the case back to the Assessing Officer for making a fresh assessment within the time limit set by the Finance Act, 2024. For Statistical purposes, the appeal has been Allowed.”

9. Now, the assessee is before the Tribunal on the grounds contained in the memorandum of appeal and the main grievance of the assessee is that the Ld. CIT(A)

has not adjudicated on the legal grounds contained in the *memorandum of appeal in Form No. 35*.

10. In course of hearing before the Tribunal, the Id. AR of the assessee submitted that the total cash deposits in both the bank accounts together totals to *Rs. 49.76 lacs* which is below the stipulated amount of *Rs. 50 lacs* and as such the reopening of the assessment beyond the *three-year period* is barred by limitation and the assessment deserves to be quashed.

11. He further submitted that the AO has wrongly considered the deposits in *Central Bank of India* as *15,13,000/- (based on incorrect information received)* when actually the total of cash deposits in the said bank is only *nine lacs*, and in support of his contention he has furnished the copy of the bank statement. To sum up the matter the Id. AR pointed out that the total deposits in both the banks taken together *being 49.76*, is less than the minimum requirement of *50 (fifty lakhs)* and as such, the assumption of jurisdiction u/s 147 beyond a three-year period is barred by limitation, being hit by the provisions of section 149(2)(b) of the Act 61.

12. He further submitted that the approval itself granted by the PCIT u/s 151 on the basis of *incorrect fact* by assuming the cash deposit to be *55.89 lacs* is factually incorrect and in support of his contention he relied on the *Hon'ble Bombay High Court*

in the case of Tele Performance Global Service (P.) Ltd. v. ACIT [2024] 298 Taxman 769 (Bom)(HC).

13. Before concluding, he further raised the legal issue pertaining to validity of the notices issued by the jurisdictional Assessing Officer (JAO) u/s 148 dated 31.03.2022 which is not legally valid in terms of the *CBDT Notification No. 18/2022 dated 29.03.2022 issued in terms of section 151* of the Act which mandates that such notice is to be issued only in a faceless manner and in support of his contention he relied on the *Hon'ble Punjab & Haryana High Court in the case of Jatinder Singh Bhangu v. UOI & Ors dated 19.07.2024 in CWP-15745-2024.*

14. As such, the ld. AR submitted that the *ld. first appellate authority* was not legally justified in refusing to adjudicate the legal grounds contained in *Form No. 35*, by simply setting aside the matter before the AO for fresh assessment, in consequence to which the AO has issued notice u/s 142(1) for proceeding with the set-aside assessment, ignoring the legal issues raised before appellate authorities.

15. As such he prays for adequate relief.

16. The Ld. DR relied on the order of the CIT (A) and submitted that since the case is set aside to the AO for fresh assessment, all legal issues may be taken up at the assessment stage, as such he prayed for upholding the order of Ld. CIT(A).

17. We have heard the rival submissions and considered materials on record and we are of the view that the appellate authority needs to adjudicate on all the grounds contained in the memorandum of appeal specially the legal issues which strikes at the very root of jurisdiction.

18. As such we deem it fit and proper to remand the matter to the files of the Ld. CIT(A) for adjudication on the legal grounds taken by the assessee in form 35, after allowing proper and reasonable opportunity of being heard to the assessee and the assessee is also directed to file all his submission and fully cooperate in appeal proceedings.

19. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court as on 22.01.2026

**Sd/-
(Manoj Kumar Aggarwal)
Accountant Member**

**Sd/-
(Udayan Dasgupta)
Judicial Member**

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order