

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.191/Ind/2025
Assessment Year:2010-11

Ravindra Awasthi, S/o Shri Ramcharan Awasthi, Gram Tilore Khurd, Tehsil & Dist Indore	<u>बनाम/</u> Vs.	ITO 2(1) Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AVKPA7009G		
Assessee by	Shri Harsh Vijyavargiya, ARs	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	13.01.2026	
Date of Pronouncement	22.01.2026	

आदेश / O R D E R

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

Feeling aggrieved by order of first-appeal dated 13.09.2023 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 05.12.2017 passed by learned ITO-2(1), Indore ["AO"] u/s 144 r.w.s. 147 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2010-11, 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 412 days and therefore time-barred. The assessee has filed an application/affidavit for condonation of delay; the same is scanned and re-produced for an immediate reference:



मध्य प्रदेश MADHYA PRADESH
Before Hon'ble ITAT Indore Bench, Indore

DH 541888

Affidavit for condonation of Delay of 412 Days in ITA No. 191/Ind/2025 in the matter of Ravindra Awasthi for AY 2010-11

It is submitted as under -

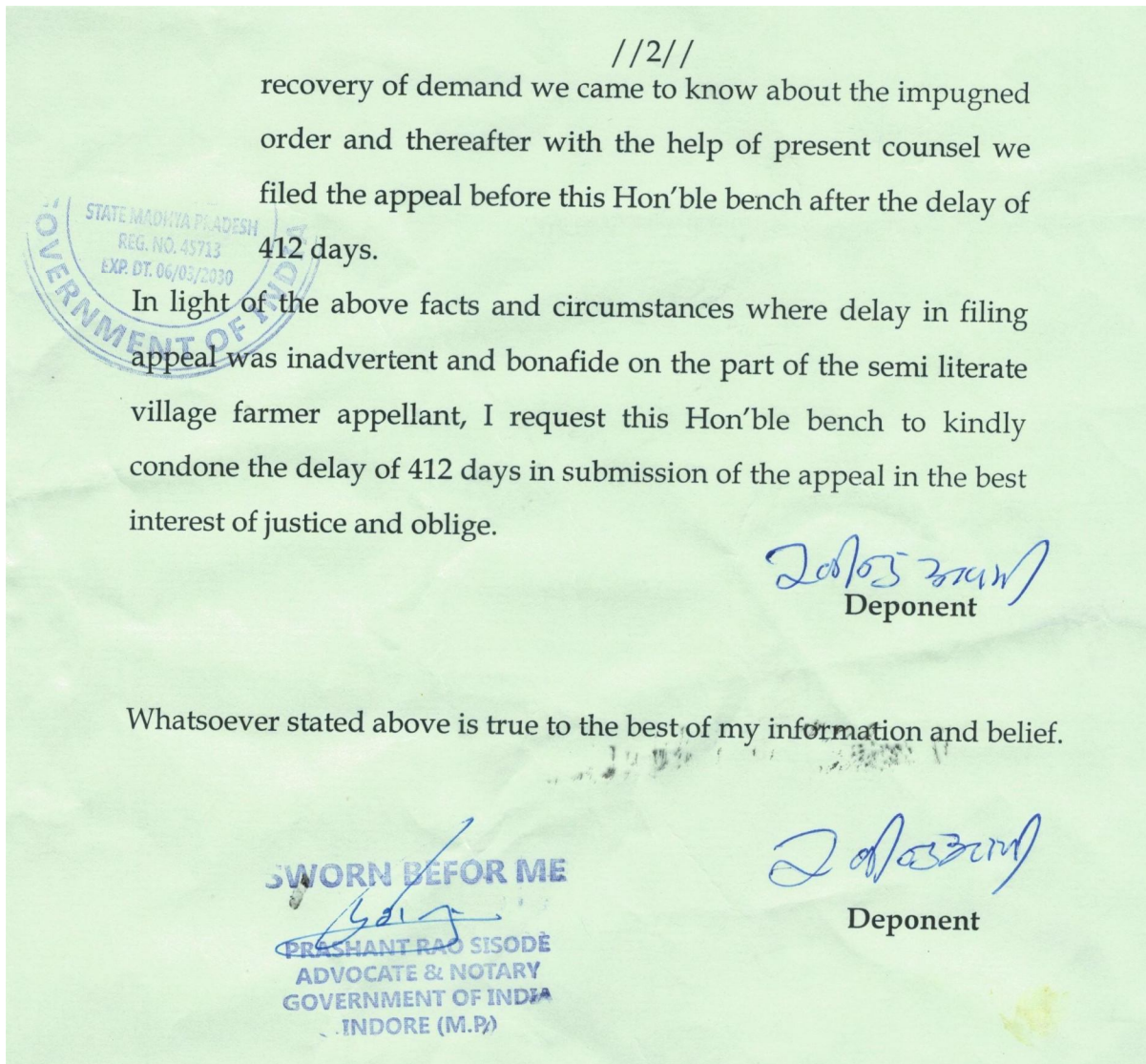
- 1) That assessee is a semi literate farmer living in a village and not conversant with income tax laws. That impugned order passed by Ld. CIT(A)-NFAC on 13/09/2023 and first seen by assessee on 13/02/2025. However, present appeals were filed by appellant on 16/02/2025 after the delay of 412 days from the date of impugned order.
- 2) That none of the hearing notices and impugned First Appeal order was received by the assessee as the same may be delivered on the email id of our past counsel cacjain@gmail.com who has not shared the same to assessee. However, when someone from the department called us for

Con.....2

20/03/2025

SWORN BEFORE
PRASHANT RAO SISODE
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
INDORE (M.P.)

FILED & REGISTERED
Serial No. 27/2026
Date 09/01/2026



3. The averments made by assessee in above affidavit, which are self-explanatory and which do not require repetition, were discussed and the Ld. DR for revenue does not have any objection if the bench condones delay and accordingly left it to the wisdom of bench. We have considered the explanation advanced by assessee and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that 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 ***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. Thus, taking into account the facts of case, the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view, condone delay, admit appeal and proceed with hearing.

4. Ld. AR for assessee submits that the section 250(6) of the Income-tax Act, 1961 provides "*The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.*". He further submits that in present case, the Ld. CIT(A) has dismissed assessee's first appeal although due to non-prosecution by assessee on the dates of hearing but still without complying with the mandate of section 250(6). Therefore, the impugned first appeal-order passed by Ld. CIT(A) deserves to be set aside.

5. Ld. AR further submits that the assessment-order passed by AO is also ex-parte u/s 144, therefore it would be fit to restore this appeal at the level of AO for a fresh adjudication. Ld. AR acknowledges that the assessee is ready and willing to make a proper representation before AO if an

opportunity is given and hence prays that the present matter should be remanded to AO.

6. Ld. DR for revenue agreed to the submission and prayer of Ld. AR but made a request to direct the assessee to represent his case before AO and do not seek unnecessary adjournments.

7. In view of above, 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, we remand this matter back to the file of AO for adjudication afresh. **However, in order to offset the revenue's efforts, we impose a cost of Rs. 2,500/- to be paid by assessee to "Prime Minister National Relief Fund". The assessee shall submit a proof of such payment to AO during proceedings. This payment of cost shall be a pre-condition for assessee to avail the benefit of fresh adjudication from AO.** 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.

8. Resultantly, this appeal is allowed for statistical purpose, subject to payment of cost by assessee as mentioned above.

Order pronounced in open court on 22/01/2026

Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 22/01/2026

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