



आयकर अपीलीय अधिकरण 'एकल' न्यायपीठ, लखनऊ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "SMC", LUCKNOW**

श्री कुल भारत, उपाध्यक्ष के समक्ष  
**BEFORE SHRI KUL BHARAT, VICE PRESIDENT**

आयकर अपील सं/ ITA No.265/LKW/2025

निर्धारण वर्ष/ Assessment Year: 2015-16

<b>Rampal</b> S/o Ujagar Moh. Khakhi Sarai Ward No.4 Mishrikh Tirth District-Sitapur-261401.	v.	<b>Income Tax Officer</b> National Faceless Appeal Centre (NFAC) Delhi
<b>PAN:CNDPP3989D</b>		
अपीलार्थी/(Appellant)		प्रत्यर्थी/(Respondent)

अपीलार्थी कि और से/Appellant by:	Shri Chandra Prakash Srivastava, Adv		
प्रत्यर्थी कि और से /Respondent by:	Shri R. R. N. Shukla, Addl. CIT(DR)		
सुनवाई कि तारीख / Date of hearing:	12	01	2026
घोषणा कि तारीख/ Date of pronouncement:	30	01	2026

**ORDER**

**PER KUL BHARAT, VICE PRESIDENT.:**

This appeal, by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 18.02.2025 pertaining to the assessment year 2015-16. The assessee has raised the following grounds of appeal: -

*"1. That Income tax officer Sitapur had passed exparte assessment order u/s 147 r.w.s. 144 without offering any reasonable opportunity, which is arbitrary, bad in law and against natural justice.*

*2. The Appellant is a small-scale agriculturist and has no taxable income, moreover Appellant was not registered on Income Tax Portal before 07/08/2023 hence not aware about any notice u/s 148, u/s 142(1), order of any penalty proceedings. It is pertinent to mention here that for the first time assessee has online registered on E filing portal on dated 07/08/2023.*

3. That without prejudice to the earlier grounds, as per u/s 3. 149 of the income tax Act 1961 the initiation of assessment proceedings under section 147 of the act in the case of the appellant, is without jurisdiction being time barred as the alleged escaped income for the year under appeal did not exceed Rs. 50 lakhs.

3.1 Section 149 of the Income Tax Act 1961 governs the time limit for issuing notice u/s 148 to re-open assessment for 3-1 income that has escaped taxation which explained as under:

3.2 Up to 3 years from the end of the relevant AY; For cases 3.2 where the escaped income is up to 50 lakh (introduced post-Finance Act 2021).

3.3 Requires approval from the Principal Chief Commissioner of Income Tax (Pr CCIT). Up to 10 years from the end of the relevant assessment Year, applies if the escaped income exceeds 50 lakh (in the form of assets, including foreign assets). Requires approval from the. Pr CCIT. In the above case the said escaped income is Rs. 34,22,10,610/- for the assessment year 2015-16. which is much less than 50 lakhs and beyond of three years from the end of the relevant assessment year.

3.4 In light of the above time frame as per u/s 149 of the Income Tax Act 1961, the assessment proceedings u/s 148 or illegal, time barred and deserves to be quashed.

4. That in any case the jurisdictional notice U/s 148A /148 4. Issued by the Ld. Income Tax, Officer, Sitapur was never served upon the appellant which is also apparent from the Page 2 para 3 of assessment order where Ld. Income tax officer has mentioned as "notice issued but no compliance has been received till date" here Ld. Income tax officer has not mentioned about service of notice in the assessment order. Actually, the notice under section 148A dated 29/03/2022 was served upon 80me "Ashish Kumar" on 30/03/2022 (the fact is based on certified information Provided by the Income Tax Officer Sitapur, (copy of the same is enclosed as annexure A). Kindly view the service of Notice on fake identity (ASHISH KUMAR'). The person named Ashish Kumar is neither any family member or relative of appellant, Consequently the Proceedings u/s 148 are baseless and illegal, In light of the above facts it is crystal clear that neither the notice u/s 148 Was served on the appellant either by way of online ( as appellant was registered Of Income Tax Portal on 07/08/2023) (proof of 1<sup>st</sup> time registration on Income Tax Portal is enclosed as Annexure "B") of by way of offline as the said notice u/s148 was not served upon the appellant or any of his finally member), On the grounds of above facts and circumstances it is prayed that the entire assessment proceedings u/s 148 deserves to be quashed.

5. That the assessee had deposited Rs.22,00,500/- in the said bank account out of sale proceeds of his agricultural land. Since no capital gain arises on sale of agricultural land, no income tax liability arises on the part of assessee.

6. That the Ld. Commissioner of Income tax (Appeal) (National faceless Appeal Center, Delhi) via his order dated 18/02/2025 has dismissed the appeal on technical ground ie. delay of 119 days in filing of appeal, which is grossly erred in law and contrary to facts that the assessment order was first time served on the assessee on 07/08/2023 when appellant was first time registered on Income tax portal after making e-mail id [rampalitr1970@gmail.com](mailto:rampalitr1970@gmail.com), (Proof of first time registration is enclosed as annexure "B"). AS & vigilant assessee, Appellant has filed an appeal

*before Commissioner of Income Tax (Appeal) on 25/08/2023 which is within time i.e. within 30 days from the date of service of order i.e.07/08/2023, hence there is no question of praying for condonation of delay.”*

2. The assessee has raised multiple grounds of appeal challenging the impugned assessment order. Although the grounds of appeal are argumentative in nature, however, the issues that clearly emerge for adjudication are that firstly, the Ld. CIT(A) failed to appreciate that there was reasonable cause for the delay in filing the appeal. The assessee being illiterate and was registered Income Tax Department Portal for the first time only on 07.08.2023, which adequately explains the delay. Secondly, the Ld. CIT(A) grossly erred in not appreciating that the assessment order itself is without jurisdiction. Thirdly, the notices issued by the AO were not duly served upon the assessee, vitiating the assessment proceedings. On merits, it is submitted that the amount was deposited out of the sale consideration of agricultural land, therefore, even otherwise also, same does not attract any tax liability. Thus, it is prayed on behalf of the assessee that the impugned assessment order deserves to be quashed.

3. The facts in brief are that the Assessing Officer (AO) received an information that the assessee had deposited in his bank account cash amounting to Rs.22,00,500/-. Therefore, the assessment was reopened in the case of assessee. It is observed by AO that on account of non-compliance of statutory notices, he proceeded to make addition of Rs.22,00,500/- and Rs.10,107/- in respect of interest earned by the assessee vide *ex parte* assessment order dated 29.03.2023. Aggrieved by this, the assessee preferred appeal before the Ld. Commissioner of Income

Tax Appeal [CIT(A)], who dismissed the appeal on the ground of limitation. Now the assessee is in appeal before this Tribunal.

4. At the outset, the Ld. Counsel for the assessee contended that the notice of hearing was not properly served upon assessee. However, the AO proceeded to pass an *ex parte* order. It was further submitted that the order of the AO was received by the assessee belatedly which resulted into delay in filing the appeal before the First Appellate Authority. The Ld. CIT(A), however, dismissed the appeal on the ground of limitation without duly considering the facts. The Ld. AR also contended that, as per the instructions issued by the CBDT, the present case could not have been reopened since the alleged escapement of income of Rs.22,10,607/- for the A.Y. 2015-16 is much below the monetary limit of Rs.50,00,000/- as more than three years had elapsed from the end of the relevant assessment year. Admittedly, there is no approval by the Ld. Principal Chief Commissioner of Income Tax. Further, it is vehemently argued that the requisite notice u/s 148 of the Act was not duly and served upon the assessee. Therefore, he submitted that under these facts the assessment order deserves to be quashed.

5. On the other hand, the Ld. Departmental Representative (DR) opposed the submission and supported the orders of the lower authorities.

6. Heard the Ld. Representatives of the parties. Under the facts and circumstances of the present case, I am of the considered view that the assessee has made out a case for condonation of delay. Therefore, the delay in filing the appeal before the Ld. CIT(A) for challenging the validity of the assessment order is condoned. It is contended on behalf of the

assessee that no approval was obtained from the Ld. PCCIT, though admittedly the income alleged to have escaped assessment is below the monetary limit of Rs.50,00,000/-. The Revenue was directed to furnish the approval, if any, granted by the Ld. PCCIT for reopening the assessment. However, no such approval has been placed on record. In view of the post-amendment legal position, in cases where the alleged escaped income is less than Rs.50,00,000/-, prior approval of the Ld. PCCIT is a *sine qua non* for reopening the assessment. Although the Assessing Officer claims that the case was reopened after obtaining approval from the Ld. PCCIT, no documentary evidence in support of such approval has been produced. In the absence of mandatory approval, the reopening of the assessment is bad in law. Moreover, the assessee has explained that the source of the cash deposits was the sale consideration received from agricultural land. In support of this contention, the assessee has filed relevant sale deeds on record. Therefore, looking the entirety of the facts and circumstances of the case, the assessment so framed cannot be sustained, hence, quashed. The grounds raised in the appeal are allowed in the terms indicated hereinabove.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on 30/01/2026.

Sd/-

[कुल भारत]

[KUL BHARAT]

उपाध्यक्ष/VICE PRESIDENT

DATED: 30/01/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File

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