

**आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता**

**IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH KOLKATA**

**Before Shri Rajesh Kumar, Accountant Member and  
Shri Pradip Kumar Choubey, Judicial Member**

**ITA Nos.2623 to 2625/Kol/2025  
Assessment Years: 2011-12, 2012-13 & 2017-18**

**Srikrishan Agarwal.....Appellant  
C/o Subash Agarwal & Associates,  
Siddha Gibson, 1, Gibson Lane, Suite 213,  
2<sup>nd</sup> Floor, Kol-69.  
[PAN: AOOPA9018C]**

**vs.**

**DCIT, Circle-3(2), Gangtok.....Respondent**

**Appearances by:**

Shri Siddharth Agarwal, Advocate, appeared on behalf of the appellant.  
Shri S. B. Chakraborty, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 19, 2026

Date of pronouncing the order : January 28, 2026

**ORDER**

**Per Pradip Kumar Choubey, Judicial Member:**

All the captioned appeals have been preferred by the assessee against the separate orders all dated 15.08.2025 of the National Faceless Appeal Centre [‘CIT(A)’] passed under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) respectively. Since, the issues involved in all the appeals are common and relate to the same assessee, therefore, these appeals have been heard together and are being disposed of by this consolidated order. ITA No.2623/Kol/2025 is taken as lead case for narration of facts.

2. At the outset, we notice that the captioned appeals filed by the assessee with a delay of 12 days and the assessee has filed petition for condonation of the delay. Considering the same and shortness of the

delay, we condone the delay in filing the appeal and proceed to dispose of the appeals on merits.

3. ITA No.2623/Kol/2025 – Brief facts of the case are that the assessee had not filed Income Tax Return for the year under consideration. As per information, the Assessing Officer found that the assessee made business receipts of Rs.16772790/- during the year under consideration. A notice u/s 148 was issued on 29.03.2018, but the assessee did not file ITR in response to the same. The Assessing Officer completed the reassessment proceedings assessing total income of the assessee at Rs.1341823/- by estimating the business profits @8% on turnover value taken at Rs.16772790/-.

4. Aggrieved by the said order, the assessee filed an appeal before the CIT(A). The ld. CIT(A) simply dismissed the appeal of the assessee on the ground of delay.

5. Aggrieved and dissatisfied, the assessee is in appeal before us. At the time of hearing, the Ld. AR submitted that the assessee is an old aged person of 73 years and the assessee has no technical knowledge about the income tax proceedings and the assessee could not represent the case due to Covid 19 pandemic before the ld. CIT(A). He stated that the total income of the assessee is exempt from income tax as per provisions of section 10(26AAA) of the Act and the assessee had not filed ITR resulting in the said addition made by the Assessing Officer passing an ex parte order u/s 144 which was simply confirmed by the ld. CIT(A) also passing an ex parte order dismissing the appeal of the assessee only based on delay without going into the merits of the case. The Ld. AR therefore prayed for one more opportunity to substantiate the case before the authorities below.

6. The Ld. DR did not make any objection to the above proposal of the ld. AR.

7. We have considered the submissions of the counsels of the respective parties and perused the material available on record. We find that the assessee is a member of Association of Old Settlers of Sikkim and the Hon'ble Supreme Court has decided the issue in 11.02.2013. We further find that as per provisions of section 10(26AAA) of the Act, the assessee was under bona fide belief that the entire income is exempt under the provisions of the Act, so the assessee could not file return of income. We also find that the assessment order was passed u/s 144 of the Act and the Id. CIT(A) dismissed the appeal of the assessee on the ground of delay without going into the merits of the case. We find that before the Id. CIT(A), the assessee has explained the delay wherein it was mentioned that the assessee is an old aged person of 73 years and has no technical knowledge about the income tax proceedings and could not represent the case due to Covid 19 pandemic. We note that the delay was neither deliberate nor intentional but was occurred due to reasons which were beyond the control of the assessee. We further note that when technicality is fitted against substantial justice, obviously technicality should step back and the delay is only a technical issue. Under the circumstances, in the interest of natural justice, we deem it fit to remand this matter back to the file of Assessing Officer with the direction to adjudicate the matter on merits after affording opportunity to the assessee of being heard and to pass a speaking order in accordance with law. The assessee is directed to fully cooperate in the remand proceedings by producing supporting documents to substantiate the case.

8. ITA Nos.2624&2625/Kol/2025 - Since the facts and issues involved in all the appeals are identical, therefore, our findings/directions given above in ITA No.2623/Kol/2025 will mutatis mutandis apply to ITA Nos.2624&2625/Kol/2025 also. Hence, ITA Nos.2624&2625/Kol/2025 are also allowed for statistical purposes.

9. In the result, all the captioned appeals filed by the assessee are allowed for statistical purposes.

***Kolkata, the 28<sup>th</sup> January, 2026.***

Sd/-  
**[Rajesh Kumar]**  
**Accountant Member**

Sd/-  
**[Pradip Kumar Choubey]**  
**Judicial Member**

Dated: 28.01.2026.

RS

*Copy of the order forwarded to:*

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches