

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM
आयकर अपील सं. / ITA No: 849/RPR/2025
(निर्धारण वर्ष Assessment Year: 2013-14)

Savita Sanjay Marghade, MIG-658, Padmanabhpur, Durg, Chhattisgarh. 491001	vs	Income Tax Officer, Aaykar Bhavan, Opposite Geet Talkies, New Civic Centre, Sector 6 Bhilai Nagar, Chhattisgarh. 490006
PAN: AKTPM6715H		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	None.
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	10/02/2026
घोषणा की तारीख / Date of Pronouncement	:	17/02/2026

आदेश / ORDER

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2013-14 filed by the assessee is directed against the order dated 17.10.2025 of the Commissioner of Income Tax (Appeals), ['CIT(A)'], National Faceless Appeal Centre ('NFAC'), Delhi passed under section 250 of the Income Tax Act, 1961 ('Act').

2. The grounds of appeal raised by the assessee are as under:

"1. The learned Commissioner of Income Tax appeals erred in law and on facts in dismissing the appeal by refusing to condone the delay in filing Form 35 without appreciating that the delay was neither will full nor deliberate and that

*sufficient cause within the meaning of section 249(3) of Income Tax act 1961
Mas duly explained by the appellant.*

- 2. The learned Assessing Officer erred in law and on facts in making the addition of Rs.55,25,350 under the head income from other sources on account of acquired contract of sale purchase of equity shares, without appreciating the fact that the set amount only represented the market value of the shares with the broker for sanctioning the intraday trading limit and does not constitute income Or received but accretion during the relevant previous year.*
- 3. The learned Assessing Officer erred in law and on facts in making an addition of Rs. 10,75,711 by treating the same as consideration arising from sale of equity shares settled by actual delivery, without appreciating that no such transaction of sale OR delivery of equity shares was ever undertaken by the Appellant during the relevant previous year and that the said amount merely represented a notional trading limit/credit exposure extended by the broker for intraday trading purposes.*
- 4. The learned Assessing Officer erred in law and on facts in making an addition of Rs. 57,82,507 by treating the same as consideration arising from sale of equity shares settled otherwise than by actual delivery, without appreciating that the said amount merely represented a notional value of intraday trading transactions and did not constitute any real sale, gross receipt, OR income accrued OR received by the Appellant during the relevant previous year.*
- 5. The learned Assessing Officer erred in bringing to tax a nonexistent and notional purchase transaction of Rs. 10,19,063 in the absence of any contract note, Demat credit, OR settlement through the stock exchange, thereby acting contrary to the settled principles that only real and substantive transactions can be subjected to tax.”*

2.1 The first ground is in relation of the rejection of condonation of delay application by the Ld. CIT(A), whereas the other grounds are on merit of the additions made in the assessment order.

3. The relevant facts giving rise to this appeal are that the assessee is a non-filer of the Income Tax Return ('ITR'). The Ld. Assessing Officer ('AO') based on the information that the assessee, a non-filer of the ITR, had made purchases and sales of shares worth Rs.1,34,02,971/- during the year, re-opened the case of the assessee under section 148 of the Act. The consequential assessment, in absence of any compliance during the assessment proceedings by the assessee, the said share transactions aggregating to Rs.1,34,02,971/- was taxed accordingly. Aggrieved, the assessee filed appeal before the Ld. CIT(A). The said first appeal was delayed by 518 days, which was not condoned by the Ld. CIT(A) on the reasoning that the justification for condonation of delay was neither genuine nor valid. Consequentially the Ld. CIT(A) dismissed the appeal. Further, the Ld. CIT(A) placed reliance on the following decisions:

- “1. Majji Sannemma & Sanyasirao Vs. Reddy Sridevi & Others in Civil Appeal No. 7696 of 2021.*
- 2. Esha Bhattacharjee vs. Management Committee of Raghunathpur Nafar in Civil Appeal Nos.8183, 8184 of 2013 dated 13.09.2013 (S.C.)*
- 3. Vama Apparels (India) Private Ltd vs. ACIT (2019):102 com 395 (Bombay).”*

4. Before us, the assessee was not represented by anyone. Therefore, we heard Dr. Priyanka Patel, Ld. Sr. DR as there was no compliance on the part of

the assessee. The Ld. Sr. DR argued the case vehemently and prayed for dismissal of the appeal.

5. We have heard the Ld. Sr. DR at length and have perused the materials available on the record. We have perused the Central Board of Direct Taxes (CBDT) notification bearing F. No. S.O. 3296 (E), dated 25-9-2020 issued in exercise of the powers conferred under section 250(6B) of the Act. The relevant part of this Notification reads as under:

“4. Faceless Appeal Centres.–

(1) For the purposes of this Scheme, the Board may set up-

- (i) a **National Faceless Appeal Centre** to facilitate the conduct of e-appeal proceedings in a centralised manner, which shall be vested with the jurisdiction to dispose appeal in accordance with the provisions of this Scheme;*
- (ii) **Regional Faceless Appeal Centres** as it may deem necessary to facilitate the conduct of e-appeal proceedings, which shall be vested with the jurisdiction to dispose appeal in accordance with the provisions of this Scheme;*
- (iii) **Appeal units**, as it may deem necessary to facilitate the conduct of e-appeal proceedings, to perform the function of disposing appeal, which includes admitting additional grounds of appeal, making such further inquiry as thinks fit, directing the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry, seeking information or clarification on admitted grounds of appeal, providing opportunity of being heard to the appellant, analysis of the material furnished by the appellant, review of draft order, and such other functions as may be required for the purposes of this Scheme;*

and specify their respective jurisdiction.

(2) All communication between the appeal unit and the appellant or any other person or the National e-Assessment Centre or the Assessing Officer with respect to the information or documents or evidence or any other details, as may be necessary under this Scheme shall be through the National Faceless Appeal Centre.

(3) The appeal unit referred to in clause (iii) of sub-paragraph (1) shall have the following authorities, namely: –

(a) one or more Commissioner(Appeals);

(b) such other income-tax authority, ministerial staff, executive or consultant to assist the Commissioner (Appeals) as considered necessary by the Board.

5. Procedure in appeal: —

(1) The appeal referred to in paragraph 3 shall be disposed of under this Scheme as per the following procedure, namely: -

(i) the National Faceless Appeal Centre shall assign the appeal to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system;

(ii) where the appellant has filed the appeal after the expiration of time specified in sub-section (2) of section 249 of the Act, the appeal unit may, —

(a) in case, it is satisfied that the appellant had sufficient cause for not filing the appeal within the said time, admit the appeal; or

(b) in any other case, reject the appeal, under intimation to the National Faceless Appeal Centre;

(iii) where the appellant has applied for exemption from the operation of clause (b) of sub-section (4) of section 249 of the Act, the appeal unit may, —

(a) admit the appeal and exempt the appellant from the operation of provisions of said clause for any good and sufficient reason to be recorded in writing; or

(b) in any other case, reject the appeal, under intimation to the National Faceless Appeal Centre;

(iv) the National Faceless Appeal Centre shall intimate the admission or rejection of appeal, as the case may be, to the appellant;

(v) where the appeal is admitted, —

(a) the appeal unit may request the National Faceless Appeal Centre to obtain such further information, document or evidence from the appellant or any other person, as it may specify;

(b) the appeal unit may request the National Faceless Appeal Centre to obtain a report of the National eAssessment Centre or the Assessing Officer, as the case may be, on grounds of appeal or information, document or evidence filed by the appellant;

(c) the appeal unit may request the National Faceless Appeal Centre to direct the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry under sub-section (4) of section 250 of the Act and submit a report thereof;

(d) the National Faceless Appeal Centre shall serve a notice upon the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, to submit such information, document or evidence or report, as the case may be, as may be specified by the appeal unit or as

may be relevant to the appellate proceedings, on a specified date and time;

(vi) the appellant or any other person, as the case may be, shall file a response to the notice referred to in subclause (d) of clause (v), within the date and time specified therein, or such extended date and time as may be allowed on the basis of an application made in this behalf, with the National Faceless Appeal Centre;

.....

.....”

[Emphasis supplied]

6. We have taken note of the categorical observation of the Ld. CIT(A) in case in hand that the justification for condonation of delay filed by the assessee was neither genuine nor valid.

7. After thoughtful consideration of the Notification F. No. S.O. 3296 (E), dated 25-9-2020, we are of the considered view that the admission of any appeal under section 249(2) and 249(4) of the Act, as per the Notification F. No. S.O. 3296 (E), dated 25-9-2020 in “Faceless Appeal Scheme” is in the domain of the National Faceless Appeal Centre [NFAC] or Regional Faceless Appeal Centres [RFACs] as the case may be and such admission of appeal under section 249(2) and 249(4) of the Act is not assigned to the Appeal Unit [AU]. We are unable to infer from the impugned order that whether the Ld. CIT(A) has been designated/assigned by the NFAC/[RFACs to decide the admission of appeal under section 249(2) and 249(4) of the Act and whether the Ld. CIT(A), if competent authority under “Faceless Appeal Scheme”, had provided any specific

opportunity of being heard to the assessee before rejecting her condonation delay application as the reasons advanced by her in the delay condonation application were not found sufficient.

8. After thoughtful consideration of facts of the case, above mentioned observations and the Notification F. No. S.O. 3296 (E), dated 25-9-2020, we are hereby of the considered view that the Ld. CIT(A), being an appellate authority under the AU, has erred in rejecting the delay condonation application as this appeal was assigned to him to decide the case on merit after admission of this appeal by the NFAC/RFACs. The Ld. CIT(A), in view of the Notification F. No. S.O. 3296 (E), dated 25-9-2020, is not authorised to decide the admission of appeal under section 249(2) and 249(4) of the Act. Hence, the rejection of delay condonation application of the assessee by the Ld. CIT(A) is therefore, held unjustified.

9. The right of appeal of assessee is to the extent specified in the Act. The Act read with the above Notification F. No. S.O. 3296 (E), dated 25-9-2020 determines the nature, extent, scope and the limitations, if any, imposed thereon [*R.B. Jodha Mal Kuthiala Vs. CIT 66 ITR 319 (Delhi)*] and [*State of Haryana Vs. Maruti Udyog Ltd. (2001) 124 STC 285(SC)*]. The Act read with the above Notification F. No. S.O. 3296 (E), dated 25-9-2020 put specific restrictions and limitations on the scope and manner of exercise of the right of filing appeal and also limitations & powers of the Appellate Authorities. Considering the importance of the right to appeal of the appellant assessee, since it bestows upon him an

opportunity of getting a wrong undone and to mitigate the possibility of financial loss, the right to appeal should be viewed from a broad-based liberal perspective and not by applying a strict, constricted and myopic view. The decision whether the right to appeal is available in a particular circumstance should be guided by the form and not substance of the order appealed against [*CIT Vs. Ashoka Engineering Co.* 63 Taxman 510/194 ITR 645 (SC)]. The right of appeal is a valuable right and unless expressly taken away or abandoned, it could not be held that the appellant had abandoned or lost such right by implication [*Indian Aluminium Co Ltd. Vs. CIT* 162 ITR 788 (Cal.)]. The right to appeal is not merely a matter of procedure. It is a substantive right.

10. In view of the above, we are of the considered view that the appellant assessee deserves reasonable opportunity of being heard to make shortcomings or non-compliance if any. Therefore, considering all facts of the case. afore-stated observations and without offering any comment on merit of the case, we, in the interest of justice, deem it fit to set aside the impugned order and remit the matter back to the file of the Ld. CIT(A) to get the fate of delay condonation application decided afresh in accordance with the law and the above mentioned Notification & subsequent Notification(s) if any, after hearing the assessee. Thereafter, the case on merit, if required, shall be decided as per the law. We order accordingly. The appellant assessee should ensure compliances during the set-aside appellate proceeding before the Ld. CIT(A). Needless to say that the Ld. CIT(A) is also

required to provide reasonable opportunities of being heard to the appellant assessee. In view of above, the appeal is restored back to the file of Ld. CIT(A).

11. In the result, the appeal of assessee is **allowed for statistical purposes** as above.

Order pronounced in the open court on 17/02/2026.

Sd/- (PARTHA SARATHI CHAUDHURY) Sd/- (AVDHESH KUMAR MISHRA)
न्यायिक सदस्य / JUDICIAL MEMBER लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 17/02/2026
HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,
//True copy//

(Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur