

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'SMC' DEHRADUN)
BEFORE YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

ITA No. 252/DDN/2025 (A.Y. 2018-19)

Shiv Mandir Prabandh Samiti 135, Dharampur, Uttarakhand PAN: AAYAS3503P	Vs	ITO Ward-1(2)(3) Dehradun, Uttarakhand
Appellant		Respondent
Assessee by	Sh. Rajiv Sahni, CA	
Revenue by	Sh. A. S. Rana, Sr. DR	
Date of Hearing	10/02/2026	
Date of Pronouncement	18/02/2026	

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against the order of Ld. Commissioner of Income Tax (Appeals/ National Faceless Appeal Centre ('Ld. CIT(A)/NFAC' for short), New Delhi dated 02/05/2024 for the Assessment Year 2018-19.

2. There is a delay of 488 days in filing the captioned appeal. The Assessee claimed that the notice has been issued by the Ld. CIT(A) to the wrong e-mail id and not sent any notice to the registered e-mail id. Thus, Assessee neither received any notice nor received any order on time which is impugned in the present Appeal, thus sought for condoning the delay in filing the present Appeal.

3 Per contra, the ld. Department's Representative submitted that there is no reasonable cause to condone the delay, thus sought for dismissing the Appeal on delay in latches.

4. We have heard both the parties and perused the material available on record on the issue of delay in filing the present Appeal. The Assessee contended that the notice has been issued by the Ld. CIT(A) to the wrong e-mail id and not sent any notice to the registered e-mail id. Thus, Assessee neither received any notice nor received any order on time which is impugned in the present Appeal.

5. The Hon'ble Supreme Court time and again clarified that the delay in filing the Appeal with sufficient cause should be looked into in a liberal way and shall condone the delay. In the landmark decision in Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC), the Hon'ble Supreme Court settled the law that the delay when supported by justifiable reasons, must make way for the cause of substantial justice. Considering the above facts and circumstances, we condone the delay of 488 days in filing the present Appeal.

6. Brief facts of the case are that, the Assessee having a temple, temple premises, Dharamshala and temple shops at Dharampur,

Haridwar Road, Dehradun. The Assessee filed return of income at loss of Rs. 6,264/- which was processed u/s 143(1) of the Income Tax Act, 1961 ('Act' for short). Subsequently, the case was selected for scrutiny manually with the reason that registration u/s 12A of the Act was rejected/cancelled. An assessment order came to be passed u/s 143(3) r.w. Section 143(3A) and 143(3B) of the Act by making disallowance of Rs. 6,00,350/- claimed by the Assessee for expenditure towards Building Repair and Maintenance. Aggrieved by the assessment order dated 24/02/2021, Assessee preferred an Appeal before Ld. CIT(A). The Ld. CIT(A) vide order dated 02/05/2024, dismissed the Appeal filed by the Assessee.

7. Aggrieved by the order of the Ld. CIT(A) dated 02/05/2024, Assessee preferred the captioned Appeal.

8. The Ld. Counsel for the Assessee submitted that the Assessee is maintaining the Temple premises, Dharamshala etc. wherein the Assessee had carried out flooring activities by renovating *GarbGrihas* (5 numbers) by putting marbles up to 20 feet height and also carried out repairs of lightings with sole motive of offering of better facilities and safety to the devotees. There was no creation of new asset and the repairs of dilapidated temple premises carried out by keeping the safety

of the structure and for the safety and better facility to the devotees. Further, the Ld. Counsel submitted that both the authorities have committed grave error in rejecting the claim of the Assessee. Thus, sought for allowing the Appeal.

9. Per contra the Ld. Departmental Representative relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

10. We have heard both the parties and perused the material available on record. The Assessee is maintaining Shiv Mandir which is claimed to be in exist from past 250 years, further the said temple is consist of five *Garb Grihas* i.e.:Shivalaya, Durga SriRadha Krishna, Hanuman and Navdurga with attached Satsang hall and the said temple is having sitting capacity of three hundred devotees at a time. As per the Assessee all the Garb Grihas were renovated with marble up to 20 feet height with repairs and electricalworks were undertaken. As the said repair was undertaken with sole objective of offering of better facilities and safety of devotees and the said action of the Assessee cannot be construed as creation of new asset. Further, the said activities would help the dilapidatedstructure by getting a new lease of life with more structure safety and better facility to the devotees. Therefore, in our considered opinion, the said expenses cannot be construed as capital in

nature. Assessee has also produced requisite documents before the A.O. to substantiate its claim. However, without making any comment or disputing the same, A.O. rejected the claim of the Assessee. In our considered view, the authorities below should have accepted the claim of the Assessee and should have allowed the said expenditure claimed. In view of the above, we delete the disallowance made by the A.O. which has been confirmed by the Ld. CIT(A) and direct the A.O. to allow entire expenditure claimed by the Assessee. Accordingly, the Ground No. 1 to 5 of the Assessee's Appeal are allowed.

11. In the result, Appeal of the Assessee is allowed.

Order pronounced in the open court on 18th February, 2026

Sd/-
(SANJAY AWASTHI)
ACCOUNTANT MEMBER

Date:- 18.02.2026
Reshma Naheed, Sr.P.S

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI