

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(VIRTUAL HEARING)**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

**I.T.A. No. 100/Asr/2024**  
Assessment Year: 2008-09

Yasir Nisar Wani,  
R/o Baghe Firsus Colony,  
Air Post Road Parraay Pora,  
Srinagar, J & K 190001  
[PAN: AAWPW 9606L]

Vs.

I.T.O.,  
Srinagar

**(Appellant)**

**(Respondent)**

Appellant by	:	Sh. Vaseem Ahmad, C.A.
Respondent by	:	Sh. Charan Dass, Sr. D. R.
Date of Hearing	:	04.02.2026
Date of Pronouncement	:	12.03.2026

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of the Id. CIT(A)-1 Amritsar dated 26.03.2019 passed u/s 250(6) of the Income Tax Act, 1961 (*henceforth the Act*) which has emanated from the order of the ITO, W-3(3), Srinagar dated 30.03.2016 passed u/s 143(3) of the Income Tax Act, 1961.

2. **Condonation of delay:** This appeal is filed belatedly by 1741 days (One Thousand Seven Hundred and Forty-one days). The CIT(A) order is passed on 26<sup>th</sup> March, 2019, and the appeal before the ITAT has been filed on 29<sup>th</sup> February, 2024. The assessee has filed an affidavit explaining the delay as under:

- “1. That I am the appellant in the above-mentioned appeal and am fully conversant with the facts of the case.
2. That the appeal filed by me before the Ld. Commissioner of Income Tax (Appeals), Jammu was disposed of vide order dated 26.03.2019.
3. That the last date for filing the appeal before the Hon'ble Income Tax Appellate Tribunal was 25.05.2019. However, I have been working outside India for several years and did not receive the CIT(A)'s order in time.
4. That on 05.08.2019, after the abrogation of Article 370, the Government imposed severe restrictions and curfew across Jammu & Kashmir. All communication channels were completely blocked, including mobile networks, SMS facility, and internet services. Due to this, I could neither obtain the CIT(A) order nor communicate with my counsel to file the appeal.
5. That even after 14.10.2019, when mobile services resumed partially, SMS facility continued to remain blocked and internet service was still shut in Kashmir Division, making normal communication impossible.
6. That from March 2020, due to the nationwide COVID-19 lockdown, international flights were cancelled and I was unable to travel to India. During my visit to India much later, I came to know that my appeal before CIT(A), Amritsar had been dismissed and that the earlier order had never reached me in time.

7. *That the delay in filing the present appeal occurred due to the above extraordinary and unavoidable circumstances, which were completely beyond my control. The delay is unintentional and bona fide.*
8. *That I respectfully pray that the Hon'ble Tribunal may kindly condone the delay in filing the appeal.”*

3. Thereafter, he filed another condonation application to submit as follows:

*“We are submitting this response in response your letter dated 28-08-2024 regarding the delay in submitting the application by 1741 days.*

*The appellant was outside India from 17-12-2012 till **date due to** employment purposes and was unable to **file the appeal within the** stipulated time frame. Details of his visits **to India, supported by** photocopy of passport attached, is as below:*

<i>Date of Arrival</i>	<i>Date of Departure</i>	<i>Time of Stay</i>	<i>Purpose</i>	<i>Page No</i>
<i>31-01-2019</i>	<i>09-02-2019</i>	<i>08 days</i>	<i>Official Visit</i>	<i>1</i>
<i>09-03-2019</i>	<i>15-03-2019</i>	<i>05 days</i>	<i>Official Visit</i>	<i>2,3</i>
<i>07-05-2019</i>	<i>10-05-2019</i>	<i>02 days</i>	<i>Official Visit</i>	<i>3,4</i>
<i>01-07-2019</i>	<i>14-07-2019</i>	<i>12 days</i>	<i>Official Visit</i>	<i>2,4</i>
<i>10-08-2019</i>	<i>16-08-2019</i>	<i>05 days</i>	<i>Official Visit</i>	<i>5,4</i>
<i>12-09-2019</i>	<i>15-09-2019</i>	<i>02 days</i>	<i>Official Visit</i>	<i>6,4</i>
<i>21-11-2019</i>	<i>23-11-2019</i>	<i>01 day</i>	<i>Official Visit</i>	<i>04,03</i>
<i>01-01-2020</i>	<i>11-01-2020</i>	<i>09 days</i>	<i>Official Visit</i>	<i>04,07</i>
<i>14-10-2020</i>	<i>30-10-2020</i>	<i>15 days</i>	<i>Visits Horne</i>	<i>08,09</i>

27-11-2020	05-12-2020	07 days	For Visa	10,11
11-03-2021	21-03-2021	10 days	Visited Home	07,12
28-09-2021	09-10-2021	10 days	Visited Home	09,13
11-03-2022	19-03-2022	07 days	Official Visit	14,15
02-08-2022	11-08-2022	08 days	Official visit	16,15
06-08-2023	13-08-2023	06 days	Official Visit	17,12
07-02-2024	13-02-2024	05 days	For Visa	15,09

*During the visit of October 2021, he came to know that CIT(A) has dismissed his appeal. He then changed his CA and went some other CA in Jammu who assured him that he will file his Appeal to ITAT /or which he deposited the fee of Rs 10,000/-.*

*Some of his relative came to our office for this case and we get it verified from ITAT Amritsar that no appeal has been filled. One verification we came to know that he has filled the appeal in the month of 29<sup>th</sup> Feb 2024.*

*Fresh application for condonation of delay along with Affidavit as directed to file is also attached for your perusal. Despite making efforts to keep track of the proceedings, the appellant was unable to file the appeal in time due to communication challenges like lockdown and abrogation of article 370.*

*The delay was due to circumstances beyond the appellant's control (being outside India) and the appellant has a good case on merits and should not be penalized for the delay.*

*Your good self is requested to kindly condone the delay and allow the appeal to heard on merits.”*

4. The Ld. DR objected to the same considering the long delay.

5. We have considered the submissions and contents of the affidavit filed before us, but we are not entirely convinced with the reasons shown for the delay. We also take that the extended period under COVID-19, ended on 28<sup>th</sup> February, 2022, and as per the date schedule submitted by the assessee, he returned to India on 11<sup>th</sup> March, 2022 and stayed till 19<sup>th</sup> March, 2022, leaving thereafter and returning again on 2<sup>nd</sup> August, 2022. There is absolutely no valid reason as to why the appeal could not have been filed within the said period of stay in India ( *considering the fact that the ITAT fees has been paid on 11<sup>th</sup> October, 2021 as recorded in form – 36* ) and there is no proper explanation showing “ *sufficient cause* ” for the delay from March, 2022 onwards till February, 2024, which indicates intentional and wilful neglect on the part of the assessee .

6. However, in the interest of justice we condone the delay of 1,741 (*one thousand seven hundred and forty-one*) days and admit the appeal to be heard on merits. However, we also consider it to be fit case for imposition of costs and as such we impose a token cost of Rs.10,000/- (*Rs. Ten Thousand only*) on the assessee, payable to “*Prime Ministers National Relief Fund*”, within fifteen days of communication of this order (*evidence to be filed before JAO*).

7. Brief facts emerging from records are that the assessee has deposited cash amounting to *Rs. 12.86 lakhs* in his HDFC bank and in absence of any return being

filed, proceedings were initiated u/s 148 and the assessee explained the said deposit to have been made out of gifts received from his father (*but without any supporting documentary evidences* forthcoming from his father), which resulted in assessment of the said amount as his income.

8. The matter carried in first appeal has been dismissed by the Ld CIT(A) , in absence of any response to various notices issued in course of appellate proceedings, without any adjudication of the grounds on merits.

9. Before the tribunal the Ld. AR of the assessee filed copies of *four affidavits* from four different persons claiming to be relatives of the assessee , who has stated to have advanced loan to the assessee during FY 2007-08, for medical treatment of the daughter of the assessee (*but the total of such sum is only Rs. 2.40 lakhs*) and nothing is stated about his father's gift as originally claimed by the assessee.

10. The Ld AR has further filed share transaction documents relating to share trading carried out by the assessee during the FY 2007-08 , through his broker "*Angel Broking Ltd* " *Andheri East , Mumbai* ( without any name printed on the same "*Sauda Summary Report*"), and stated that the assessee has suffered loss, but could not submit any proper explanation as to the source of cash deposit in HDFC , which is the main allegation raised by the AO .

11. The Ld. DR relied on the order of the Ld CIT(A) .

12. We have considered the rival submission and we find that there is no adjudication on merits and as such we remand the matter to the Ld first appellate authority , to provide an opportunity to the assessee to explain his case with necessary evidences, and thereafter , to adjudicate on the grounds contained in form 35 on merits and we direct the assessee to furnish all documentary evidences and to fully cooperate in appellate proceedings.

13. The assessee to be allowed reasonable opportunity of being heard and notice to be issued in the portal and also in the email of his counsel, on record.

14. In the result, the appeal of the assessee is allowed for statistical purpose.

*Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 12.03.2026*

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order