

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

(PHYSICAL COURT)

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

I.T.A. Nos. 712 & 600/Asr/2025

Assessment Years: 2017-18 & 2018-19

M/s Construction Engineers,
54, Industrial Estate, Barzulla,
Srinagar, J&K 190014

[PAN: AABFC 7715P]

(Appellant)

Vs.

Asstt. Commissioner of Income
Tax, Circle-3, Srinagar

(Respondent)

Appellant by : Sh. M. A. Mir, Cost Accountant
Respondent by : Sh. Sunil Kumar Yadav, CIT-DR
Date of Hearing : 16.02.2026
Date of Pronouncement : 12.03.2026

ORDER

Per Udayan Dasgupta, J.M.:

Both the appeals are filed by the assessee against the order of the Id. CIT (A) NFAC, Delhi dated 09.07.2025 and 25.10.2023 passed u/s 250 of the Income Tax Act, 1961, which has emanated from the order of the AO, NFAC, Delhi dated 24.12.2019 and 21.04.2021 passed u/s 144 of the Act, 1961.

I.T.A. No. 600/Asr/2025 for A.Y. 2018-19

2. **Condonation of delay:** It is pointed out by the registry that the appeal has been filed belatedly by 579 (five hundred seventy-nine) days. The assessee has filed an application for condonation of delay with an affidavit explaining the delay to have arisen on account of technical incompetency of the assessee and his counsel to attend to the appellate order already uploaded in the portal on 25.10.2023. He further submitted that there was no deliberate intention of the assessee in causing the delay and since the assessee was totally unaware of the existence of the order itself in the portal, the appeal before the Tribunal could not be filed in time and he prayed for condonation of delay and for admission of the appeal for hearing on merits, in absence of any willful neglect on the part of the assessee.

3. The ld. DR objects to the said condonation application, considering the long delay of 579 days, but leaves the discretion to the bench.

4. The ld. AR of the assessee presents in course of hearing pleaded that the assessee was not conversant with the technical aspect of the matter and as such he could not access the portal for downloading the appellate order and he prays for condonation of the delay and for admission of the appeal to be heard on merits because according to him there was no intentional or willful default.

5. Considering the explanation and the causes shown, we are not very convinced regarding the reasons put-forth for delay of 579 days. We also find that the assessee is supported by qualified chartered accountants in course of hearing before the Assessing Officer and before appellate authorities and as such the excuse of technical incompetency is not a sufficient cause.

6. However, in the interest of justice, we condone the delay of 579 days and admit the appeal for hearing on merits and we also note that it is a case where neglect on the part of the assessee cannot be overlooked and we are of the opinion that it is a fit case where costs should be imposed and as such, we impose a token cost of Rs. 10,000/- (ten thousand) is being imposed on the assessee payable to the '*Prime Minister's National Relief Fund*' within 15 (fifteen) days from the date of communication of this order, (*evidences to be produced before jurisdictional Assessing Officer (JAO)*).

7. There are three grounds of appeal taken by the assessee in Form No. 36 and the main grievance of the assessee is that the ld. first appellate authority was not legally justified in upholding the rejection of books of account u/s 145(3) of the Act by the AO and has also disputed the application of net profits on gross receipts.

8. Brief facts emerging from the records are that the assessee is a contractor (*civil works*) and the return filed declaring a total income of Rs. 2.78 cores has been selected for scrutiny and in absence of documentary evidences being produced in support of the

expenditures claimed in audited accounts regarding the payments made to sub-contractors and other connecting direct and indirect expenses, the books of account has been rejected u/s 145(3) of the Act and assessment has been completed on a total income of *Rs. 8.84 crores* by estimation of profits @ 10% of the gross receipts.

9. The matter carried in appeal has been dismissed by the Id. CIT(A) in absence of any representation or response being filed by the assessee to various notices issued on five different dates (*as evident from para 4 of the appellate order*).

10. Now, the Id. AR of the assessee in course of hearing has requested for furnishing of additional documentary evidences and has filed a paper book containing *139 (one hundred thirty-nine)* pages, but was candid enough to admit that these documentary evidences were never furnished before the Id. first appellate authority. He has also not disputed the receipt of notices issued from the office of the Id. first appellate authority on various dates. He simply prayed for another opportunity of hearing so that the documentary evidences can be produced before the Id. first appellate authority for proper adjudication.

11. The Id. DR relied on the order of the Id. CIT(A) but has no objection if the matter is remanded back to the files of the Id. first appellate authority for considering the same on merits.

12. We have heard the rival submissions and considered the materials on record and we find that the ld. first appellate authority has dismissed the appeal in *limine* without adjudicating the grounds of appeal contained in Form No. 35 on merits of the case. Instead of remanding the matter to the files of the ld. CIT(A) to consider all the documentary evidences we find it more practical to remand the matter to the A.O. for considering of additional documentary evidences now filed before the Tribunal, in view of the fact that the assessment for A.Y. 2017-18 is also set aside by the ld. CIT(A) u/s 251(1)(a) to the files of the A.O.

13. To take a logical view we set aside this case back to the A.O. for fresh assessment '*de-novo*' to be taken up together along with assessment year 2017-18, and we also direct the assessee to file all supporting documentary evidences and to fully co-operate in the fresh assessment proceedings.

14. We have not expressed any opinion on merits of the case.

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

I.T.A. No. 712/Asr/2025 for A.Y. 2017-18:

16. This appeal is filed by the assessee against the order of the ld. CIT(A) dated 09.07.2015 for A.Y. 2017-18. The nature of business of the assessee is the same as in the assessment year 2018-19 and our observations applies *mutatis mutandis* to this

appeal also. However, in this case, it is seen that full compliance has been made by the assessee by filing written submissions supported by all documentary evidences before the Id. first appellate authority on various dates (*and the same is evident from para 4 of the appellate order*). The assessee has complied with all materials on different dates of hearing by filing written submissions and complete documentary evidences in support of his case.

17. Even after full compliance of the assessee, the Id. first appellate authority has not adjudicated on the grounds of appeal contained in Form No. 35 on merits but has remanded the matter back to the files of the Assessing Officer u/s 251(1) of the Act due to the fact that the assessment order has been passed ex-parte u/s 144 dated 24.12.2019.

18. We are of the opinion that the books of account and documentary evidences which have been filed before the Id. first appellate authority needs to be examined by the Assessing Officer (AO) regarding its veracity and authenticity and as such, we are also in agreement with the Id. CIT(A) and we remand the matter back to the files of the Assessing Officer for fresh assessment *de-novo*. As such, we upheld the order of the Id. CIT(A) and the appeal of the assessee is dismissed.

19. In the result, the appeal of the assessee in ITA No. 600/Asr2025 is allowed for statistical purpose and in ITA No. 712/Asr/2025 is dismissed.

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

**Sd/-
(Krinwant Sahay)
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