



आयकर अपीलीय अधिकरण 'एकल' न्यायपीठ, लखनऊ।  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "SMC", LUCKNOW**

श्री कुल भारत, उपाध्यक्ष के समक्ष  
**BEFORE SHRI KUL BHARAT, VICE PRESIDENT**

आयकर अपील सं/ ITA No.1004/LKW/2025

निर्धारण वर्ष/ Assessment Year: 2009-10

<b>Yogendra Kumar Singh,</b> 848 Tilak Colony, Subhash Nagar, Bareilly-243001.	v.	<b>Income Tax Officer-2(2)</b> Bareilly-New 243001.
<b>PAN:CCRPS4590L</b>		
अपीलार्थी/(Appellant)		प्रत्यर्थी/(Respondent)

अपीलार्थी कि और से/Appellant by:	Shri Jitendra Kumar Yadav, Advocate		
प्रत्यर्थी कि और से /Respondent by:	Shri Amit Kumar, CIT(DR)		
सुनवाई कि तारीख / Date of hearing:	03	03	2026
घोषणा कि तारीख/ Date of pronouncement:	27	03	2026

**ORDER**

**PER KUL BHARAT, VICE PRESIDENT.:**

This appeal, filed by the assessee, is directed against the order of the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre (NFAC), Delhi dated 04.06.2024 pertaining to the assessment year 2009-10. The assessee has raised the following grounds of appeal: -

*"1. Because on the facts and in the circumstance of the case, the order of Ld. CIT(Appeals) has been passed in absolute violation of the principles of Natural Justice, without providing adequate opportunity of being heard and therefore deserves to be declared a nullity.*

*2. Because without considering the facts and in the circumstances of the case Ld. CIT(A) has erred in law and in facts in confirming the order of Ao as the property was disputed with Uttar Pradesh Sugar Corporation and the disputed is related to title of ownership of property and the case is pending till date then how assessment can be completed on a disputed property and there is no marketability of disputed property and no buyer is ready to purchase on cine rate, therefore the property was sold by bank in auction on concessional rate.*

3. *Because on the facts and in the circumstances of the case the Ld. CIT(A) has erred in law and on facts in making an addition of Rs. 21,50,000/- without making the mandatory reference to the DVO.*

4. *Because on the facts and in the circumstances of the case the Ld. CIT(A) has erred in law and on facts in considering the circle rate value as deemed sales "Toleration even when such property was under dispute and was sold under auction by the bank.*

5. *Because without considering the facts and circumstances of the case, the Ld. CIT (A) has erred in law and in facts in confirming the order of assessment as re Ld. Ao has passed the order of assessment without jurisdiction.*

6. *The appellant craves for leave to add, modify, amend or delete any other and further grounds of appeal with permission."*

2. The present appeal is barred by limitation by 512 days. The assessee has filed an application seeking condonation of delay, supported by an affidavit. The Ld. counsel for the assessee reiterated the submissions as made in the application for condonation of delay and relied upon the contents of the accompanying affidavit. It was submitted that the assessee was not aware of the order passed by the Ld. CIT(A) dated 04.06.2024 and, therefore, the appeal could not be filed within the prescribed time before the Hon'ble Tribunal. The reason for the delay was that the notices/orders were not served upon the assessee, as the email address and phone number of the previous Ld. Counsel continued to be reflected on the Income Tax Portal. It was further submitted that the assessee came to know about the said order only when a notice u/s 271(1)(c) of the Act was served upon him. Thereafter, the assessee took prompt steps and changed his counsel on 21.11.2025 for the purpose of filing the appeal before the Tribunal. Thus, the delay occurred due to *bona fide* reasons beyond the control of the assessee, and the assessee was prevented by "sufficient cause" from filing the appeal within the prescribed period of limitation.

3. Per contra, the Ld. Departmental Representative strongly opposed the submissions of the assessee and contended that the

assessee cannot take advantage of his own negligence. It was submitted that no “*sufficient cause*” has been shown for condonation of such an inordinate delay and, therefore, the appeal deserves to be dismissed on the ground of limitation alone.

4. Heard the Ld. Representatives of the parties. It is the case of the assessee that the impugned order was not received within time. The appellant came to know about the said order only when a notice u/s 271(1)(c) of the Act was served upon him. Considering the fact that there was no representation before the Ld. CIT(A) and that the order has been passed *ex parte*, the reasons stated for the delay are found to be beyond the control of the assessee. Accordingly, the delay in filing the appeal is condoned and the appeal is admitted for hearing.

5. The facts, in brief, are that the assessment order dated 16.08.2016 was passed by the Assessing Officer (“AO”, for short) u/s 147/144 of the Income Tax Act, 1961 (“Act”, for short). Subsequently, the case of the assessee was reopened on the basis of AIR information. The Assessing Officer observed that the assessee had sold an immovable property during the Financial Year 2008–09 for a consideration of Rs.44,00,000/-, being the value adopted as per the circle rate. Accordingly, notice u/s 148 of the Act was issued to the assessee. However, there was no compliance from the assessee in response to the said notices. In the absence of any satisfactory explanation and after making such enquiries as deemed necessary, the Assessing Officer invoked the provisions of section 50C of the Act and adopted the stamp duty valuation for the purpose of computation of capital gains. The total income of the assessee was assessed at Rs. 21,50,000/-. Aggrieved by this, the assessee carried the matter

before the Ld. CIT(A). However, the Ld. CIT(A) dismissed the appeal *ex parte* for want of prosecution and proceeded to confirm the addition made by the Assessing Officer. Now the assessee is in appeal before this Tribunal.

6. Apropos the grounds of appeal, the Ld. Counsel for the assessee, at the outset, submitted that the Assessing Officer has invoked the provisions of section 50C of the Act and adopted the circle rate value of the property for computing the capital gains without properly appreciating the factual matrix of the case. The assessee has contended that the property in question was under dispute with the U.P. Sugar Corporation regarding title/ownership, and the matter is stated to be pending adjudication before the competent forum till date. This fact, has a direct bearing on the fair market value of the property. It is further observed that the assessee was compelled to execute the sale deed under financial duress due to pressure from the bank. Hence, he prayed that the impugned addition may be deleted.

7. On the other hand, the Ld. Departmental Representative supported the orders of the lower authorities and contended that the assessee failed to substantiate the market value as disclosed in the sale deed. He drew my attention towards finding of Assessing Authority, to buttress the contention that the AO was justified in adopting the value of property on the basis of circle rate.

8. Heard the Ld. Representatives of the parties and perused the materials available on records. Undisputedly, the issues involved in the present appeal relate to the applicability of section 50C of the Act and the validity of the assessment framed by the Assessing Officer. It is a settled position of law that where there

are peculiar circumstances affecting the value of the property, strict application of section 50C of the Act without proper inquiry is not justified. It is also noted that the assessee has specifically contended that no prudent buyer was willing to purchase the property at the circle rate due to the ongoing dispute. However, the Assessing Officer has neither examined this contention nor made any independent inquiry in this regard. Further, no reference was made to the Departmental Valuation Officer (DVO), which ought to have been done when the assessee disputed the stamp duty valuation. This action of the Assessing Officer is in violation of the principles of natural justice. Looking to the facts of the present case, the impugned order is hereby set aside restore the matter to the file of the Assessing Officer for fresh adjudication. It is needless to say that the Assessing Officer would give adequate opportunity of being heard to the assessee. The assessee is also directed to cooperate and furnish all necessary documents/evidences in support of his claim. All the grounds raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 27/03/2026.

Sd/-

[कुल भारत]

[KUL BHARAT]

उपाध्यक्ष/VICE PRESIDENT

DATED: 27/03/2026

Vijay Pal Singh, (Sr. PS)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DR
5. Guard File