

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No.646/Ind/2025
Assessment Year:2014-15

Shafique Mohammad, HNo.40, Rahat Manzil, Street No.2, Noor Mahal, Imamigate, Bhopal	<u>बनाम/</u> <u>Vs.</u>	ITO-3(1) Bhopal
(Assessee/Appellant)		(Revenue/Respondent)
PAN: CTPPM6867D		
Assessee by	Ms. Sania Farhaz Memon, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	23.03.2026	
Date of Pronouncement	27.03.2026	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first-appeal bearing DIN: ITBA/NFAC/S/250/2024-25/1070486566(1) dated 20.11.2024 passed by learned Commissioner of Income-Tax (Appeals)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 29.09.2021 passed by learned ITO-3(1), Bhopal ["AO"] u/s 147 r.w.s. 144 of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2014-15, the assessee has filed this appeal on following grounds:

“Ground 1. That in the facts and circumstances of the case the very initiation proceedings under section 148 of the Act as the fact that the appellant has deposited cash in its bank account cannot lead to forming an opinion of income escapement and the very initiation proceedings under section 147 of the Act and issuance of section 148 are bad in law and invalid.

Ground 2. That in the facts and circumstances of the case cash deposited of Rs. 11,15,000 during the relevant assessment year is out of his business income of sweets and past savings of Rs. 3,05,000 and the rest amount was cash gift received from his brothers and sister. Thus no concealment of income has been done by the appellant willfully OR unintentionally in the relevant assessment year.

Ground 3. That in the facts and circumstances of the case appellant had acted in good faith and the Learned Assessing Officer and Learned CIT appeals Faceless have passed the order in haste without giving sufficient opportunity to the appellant which is against the principle of natural justice and therefore, entire order is bad in law, which may kindly be annulled.

Ground 4. That the appellant craves leave to add to amend alter modify substitute withdrawal DLEETE OR rescind all OR any of the above grounds of appeal on OR before the final hearing if necessary so arises.”

2. There is a delay of 173 days in filing present appeal. The Ld. AR for assessee invited our attention to the application for condonation of delay supported by an affidavit filed by assessee. She narrated that the assessee's father is aged about 90 years and bed ridden. Further, at the relevant time, the assessee himself as well as assessee's son (who looks after affairs of assessee) were suffering from health issues. A bunch of medical prescriptions is filed at Pages 54 to 67 of Paper-Book to demonstrate the factum of health issues. Therefore, there occurred non-compliances at lower level and also delay in filing present appeal. Ld. AR prayed to condone delay considering these facts. Ld. DR for revenue left this to the wisdom of bench. Having regard to these facts and the averments made by assessee in the

application/affidavit for condonation of delay and in absence of any contrary material, we are satisfied that the delay in filing appeal was due to "sufficient cause" and there is neither intentional nor deliberate attempt of assessee to cause delay. In view of the settled legal position laid down by the Hon'ble Supreme Court in **Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387**, wherein it has been held that the "technical considerations" should not prevail over the cause of "substantial justice", we deem it fit to condone the delay. Accordingly, the delay in filing appeal is condoned and the appeal is taken for hearing.

3. The background facts leading to present appeal are such that the assessee-individual did not file any return of income of AY 2014-15. The AO, on the basis of information in his possession revealing cash payment of Rs. 11,15,000/- having been made by assessee towards purchase of a property made in auction conducted by a bank, issued notice dated 11.03.2020 u/s 148 to undertake assessment u/s 147 calling the assessee to file return of income. However, the assessee did not comply with such notice. Thereafter, the AO issued follow-up letter, notice u/s 142(1) and notice u/s 144 but the same also remained un-complied by assessee. Finally, the AO completed assessment u/s 144 assessing income of Rs. 11,15,000/- as unexplained money u/s 69A r.w.s. 115BBE. Aggrieved, the assessee carried matter in first-appeal whereupon the CIT(A) dismissed assessee's appeal due to non-participation. Still aggrieved, the assessee has come in next appeal before us.

4. Ld. AR for assessee at first carried us to impugned order of first-appeal passed by CIT(A) where the CIT(A) has concluded thus:

"In view of above judicial pronouncements coupled with the fact that the Appellant has not pursued the appeal and also on the face of total non-compliance, it is not possible to adjudicate the case on merit. I am, therefore, left with no option but to dismiss the appeal."

5. Ld. AR submitted that the CIT(A), although due to non-prosecution by assessee, but still has not made adjudication in accordance with provisions of 250(6) of the Act which provides *"The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision."*.

Therefore, the impugned order passed by CIT(A) deserves to be set aside. Ld. AR further submits that the assessment-order passed by AO is also ex-parte wherein the AO has made addition for lack of details/documents. However, the assessee was unable to make representation before AO due to the very same reasons as explained in the matter of delayed filing of this appeal. The Ld. AR then asserted that the assessee has subsequently collected all required details/documents and is ready and willing to make an effective representation before AO if an opportunity is given and prays that the present matter should be remanded to the file of AO for a fresh adjudication.

6. Ld. DR for revenue submits that he does not have any objection against remand but he would pray to give stricter directions to assessee.

7. In view of above submissions of parties; having regard to the principle of natural justice and also bearing in mind that no prejudice would be

caused to revenue if the present matter is restored at the level of AO, we remand this matter back to the file of AO for adjudication afresh, at the risk and responsibility of assessee and **subject to a small cost of Rs. 2,500/- to be paid by assessee to Income-tax Department through appropriate challan. The assessee shall submit a receipt of such payment to AO during proceedings and not claim any credit or refund of such payment in any manner.** The AO shall give necessary opportunity of hearing to assessee and pass an appropriate order uninfluenced by his earlier order. The assessee is also directed to remain vigilant and ensure participation in the hearings as may be fixed by AO and do not seek unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law. Ordered accordingly.

8. Resultantly, this appeal is allowed for statistical purpose, subject to payment of cost by assessee as mentioned above.

Order pronounced in open court on 27/03/2026
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Sd/-

(PARESH M. JOSHI)
JUDICIAL MEMBER

Indore

दिनांक /Dated : 27/03/2026
Patel/Sr. PS

Sd/-

(B.M. BIYANI)
ACCOUNTANT MEMBER

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore