

**IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, DELHI**

**BEFORE SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
&
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No.362/Del/2019
(Assessment Year: 2011-12)**

Smt. Kiran Wati, 2473/13, Goverdhan Bihari Colony, Shahdara, New Delhi 110032	Vs.	DCIT Central Circle Noida
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AHNPK 8472 A		
Appellant	..	Respondent

Appellant by :	None
Respondent by :	Ms. Monika Singh, CIT-DR

Date of Hearing	01.04.2026
Date of Pronouncement	09.04.2026

ORDER

PER VIMAL KUMAR, JM:

The application for condonation of delay of 135 days in filing appeal and the appeal filed by the assessee is against the order dated 06.07.2018 of the Ld. Commissioner of Income Tax (Appeals)-IV, Kanpur (hereinafter referred to as “Ld. CIT(A)”), u/s 250(6) of the Income Tax Act, 1961

(hereinafter referred to as “the Act”), arising out of order dated 30.12.2017 of the Ld. Assessing Officer/DCIT Central Circle, Noida(hereinafter referred to as “Ld. AO”), u/s 153C r.w.s. 143(3) of the Act for Assessment Year 2011-12.

2. Brief facts of the case are that, a search. & seizure operation u/s 132 of the Act was conducted on 30/09/2015 at the premises of the assessee comprising Airwill Group of cases. From the examination of seized documents and data retrieved from the Hard disc, it was found that certain seized papers/documents pertain to Smt. Kiranwati for initiation of the proceedings u/s 153C of the Act, satisfaction was duly recorded. The jurisdiction order u/s 127 of the Act, was passed by the Ld. Pr. Commissioner of Income Tax, Delhi 20, New Delhi communicated vide letter dated: 16.11.2017. Notice u/s 153C of the Act was issued on 11.12.2017. The assessee e-filed return of income on 25.02.2012 declaring total income of Rs. 3,73,580/-. Notice u/s 143(2) of the Act was issued dated 12.12.2017. Notice u/s 142(1) along with questionnaire was issued on 14.12.2017. Sh. Tanuj Garg, CA and AR, appeared and submitted details.

3. On completion of proceedings, Ld. AO vide order dated 30.12.2017 made addition of Rs.5,30,000/- for the cash deposits.
4. Against order dated 30.12.2017 of Ld. AO, the assessee filed appeal before Ld. CIT(A) which was dismissed vide order dated 06.07.2018.
5. Being aggrieved, appellant-assessee preferred present appeal. Being aggrieved, appellant-assessee preferred the application for condonation of delay of 135 days. Through application dated 06.04.2023 prayed for reasoned additional grounds as under:-
 1. On the facts and circumstances of the case, the learned assessing officer has erred both on facts and in law in making the addition as no incriminating material was found & seized, hence assessment order u/s 153C is invalid.
 2. On the facts and circumstances of the case, the learned AO has erred both on facts and in law in making addition without mentioning the precise provision of law.
 3. On the facts and circumstances of the case, the learned assessing officer has erred both on facts and in law in making the addition without providing the proper and reasonable opportunity of being heard and violative of principles of Natural Justice.
6. At the time of hearing, none appeared on behalf of the assessee. In application assessee has submitted that, due to huge losses, shortage of funds, delay in running projects and blockage of bank accounts of all major Companies and key managerial person, the assessee was unable to arrange funds to deposit appeal fees. The explanation for delay of 135 days in filing

appeal does not smack of mala fides as appellant has not gained anything by not filing appeal within period of limitation. Therefore, delay of 135 days in filing appeal is condoned.

7. In additional ground, it is pleaded that Ld. AO erred in making addition without any incriminating material seized, so assessment u/s 153C is invalid.

8. Ld. Departmental Representative submitted that, Ld. AO had made addition on basis of cash deposit in Bank.

9. From examination of record, in light of aforesaid rival contention, it is crystal clear that, Ld. CIT(A), vide order dated 06.07.2018 confirmed addition of Rs.5,30,000/- made by Ld. AO, on basis of cash deposit in Bank of Maharashtra. Ld. CIT(A), rejected cash book and statement of account for the relevant period with the Bank which had opening balance Rs.4,33,950.78/- in cash book as on 01.04.2010. Copy of rent agreement and confirmation from tenant were also submitted. Ld. CIT(A) rejected cash book and submissions of the appellant without any reasons.

10. It is a material fact apparent on record that, no addition was made on basis of any incriminating material seized during the search in proceedings

u/s 153C of the Act. Therefore, the assessment order u/s 143(3) of the Act, being illegal, is set aside.

11. Therefore, additional grounds No.1-3 are accepted.

12. In the result, the application for condonation of delay of 135 days in filing appeal and appeal filed by the assessee are **allowed**.

Order pronounced in the open court on 09.04.2026

Sd/-
(S. Rifaur Rahman)
ACCOUNTANT MEMBER

Sd/-
(Vimal Kumar)
JUDICIAL MEMBER

Dated 09.04.2026
*Mittali, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI