

**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.872/Ind/2025  
Assessment Year:2015-16


Praveen Rathore, 138, Chimanganj, Agar Road, Ujjain (Assessee/Appellant)	<b><u>बनाम/</u></b> Vs.	ITO -1(1) Ujjain (Revenue/Respondent)
<b>PAN: AMOPR6951M</b>		
Assessee by	Shri Varun Mittal & Shri Kalash Goyal, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	15.04.2026	
Date of Pronouncement	17.04.2026	

**आदेश / O R D E R**

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

Feeling aggrieved by order of first-appeal dated 24.06.2024 passed by learned Commissioner of Income-Tax (Appeals)-Addl/JCIT(A)-5, Kolkata ["CIT(A)"] which in turn arises out of assessment-order dated 29.12.2017 passed by learned ITO-1(1), Ujjain ["AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2015-16, the assessee has filed this appeal on the grounds mentioned in Appeal Memo (Form No. 36).

2. The registry has informed that the present appeal is delayed by 469 days and therefore time-barred. The assessee has filed an application/affidavit for condonation of delay; the same is scanned and re-produced for an immediate reference:



मध्य प्रदेश MADHYA PRADESH DB 824227

relevant to AY 2015-16

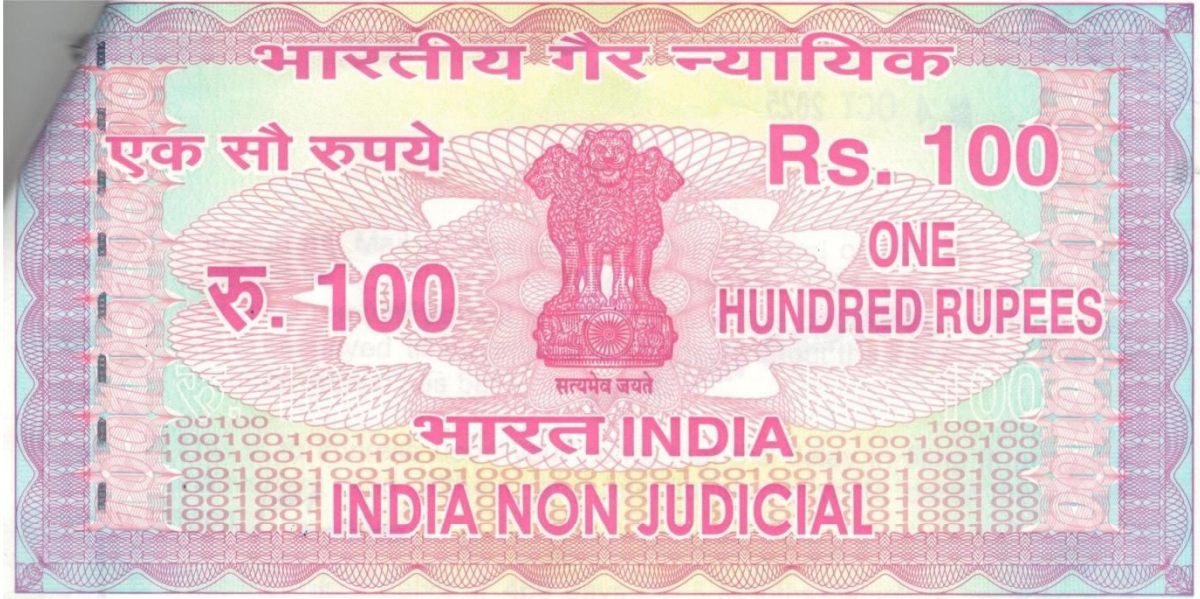
**AFFIDAVIT FOR CONDONATION OF DELAY IN FILING THE APPEAL BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL AGAINST THE APPEAL ORDER PASSED BY HON'BLE COMMISSIONER OF INCOME TAX (APPEALS) NFAC FOR AY 2015-16**

Name : Shri Praveen Rathore  
Father's Name : Shri Suresh  
Chandra Rathore Address :  
138, Chimanganj,  
Agar Road,  
Ujjain (M.P.)  
Age : 41 Years  
Nationality : Indian I, state on oath :-

That I am assessed to Income Tax against PAN -  
AMOPR6951M and was carrying on business of  
Contract Service in the name of M/s. Shree Vinayak  
Construction during the year ended 31/03/2015

Serial No. 18517/25  
Date 04/10/25

**KISHORE S. SONI**  
Advocate & Notary  
Dist. INDORE (M.P.)



मध्य प्रदेश MADHYA PRADESH

DB 824228

relevant to AY 2015-16.

2. However the Ld. AO did not accepted all the submissions and accepted only the partial submissions made by me and therefore made some of the additions to the total Income which were further litigated by way of Appeal before the Hon'ble CIT (Appeals) NFAC.
3. Meanwhile I changed my counsel and also changed my Mail ID from rathore\_ujn@yahoo.com to praveenrathore150584@gmail.com which was not inadvertently updated on Income Tax portal.
4. All the communications from the Department were received either by my earlier counsel or at my earlier mail ID which I could not see and thus the notices from Hon'ble CIT (A) went unattended.
5. The Hon'ble CIT (A) NFAC passed the Final Order u/s 250 on 24<sup>th</sup> June 2024 due to non compliance which was also not received/seen by me.



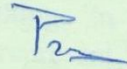
6. Later on my Mail ID was updated on portal and on 19<sup>th</sup> August 2025 I received penalty Notice u/s 271(1)(c) against which my counsel replied that the quantum appeal is pending and the penalty proceedings may kindly be stayed till the appeal is decided without the knowledge that the quantum appeal has been dismissed.
7. This is to impress upon your honor that the delay in filing in appeal is inadvertent and without any intentional motive to delay the appeal filing.
8. That there is a delay of 469 days (15.5 Months) which is because of a genuine reason.
9. That I had no interest to jeopardize the interest of the revenue by delaying the filing of appeal.
10. Considering the above facts, it is humbly requested that the delay in filing the appeal against the above mentioned appeal order may kindly be condoned.

  
(Praveen Rathore)

VERIFICATION

Praveen Rathore s/o Shri Suresh Chandra Rathore state on oath that whatever has been stated in para No.1 to 10 above is true and correct and nothing is suppressed or false.

Place : Ujjain  
Dated : 06/10/2025

  
Signature  
(Praveen Rathore)

**SIGNED BEFORE ME**

3. The averments made by assessee in above affidavit/application, which are self-explanatory and which do not require repetition, were discussed and the Ld. DR for revenue does not have any objection if the bench condones

delay and accordingly left it to the wisdom of bench. We have considered the explanation advanced by assessee and in absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in ***Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387*** that whenever substantial justice and technical considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Thus, taking into account the facts of case, the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view, condone delay, admit appeal and proceed with hearing.

4. The background facts leading to present appeal are such that the assessee-individual filed return of income of AY 2015-16 declaring a total income of Rs. 4,25,950/-. The case of assessee was taken for scrutiny and the AO issued notices u/s 143(2)/142(1). Finally, the AO passed assessment-order u/s 143(3) after making certain additions and determining total income at Rs. 18,55,550/-. Aggrieved, the assessee carried matter in first-appeal but could not represent and the CIT(A) dismissed

assessee's appeal for non-prosecution. Still aggrieved, the assessee has come in next appeal before us.

5. Ld. AR for assessee submitted that in present case, the Ld. CIT(A) passed ex-parte order dismissing assessee's first appeal in *limine*, although due to non-prosecution by assessee on the dates of hearing, but the order passed by Ld. CIT(A) is against the mandate of section 250(6) 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"*. It is further submitted that the non-prosecution by assessee was due to the reason that the CIT(A) issued all notices through e-mail, as noted in Para 4 of impugned order by CIT(A), which remained unnoticed by assessee. However, the assessee has all relevant details and documents and ready to make an effective representation before Ld. CIT(A). He submitted that the assessee does not have non-participative attitude which is evident from the fact that the assessee made participation before AO during assessment-proceeding. Ld. AR prayed that in the interest of justice, one more opportunity be given to assessee by way of restoring this matter at the level of Ld. CIT(A) for a *de novo* adjudication. He acknowledged that the assessee shall definitely make a proper and effective representation before Ld. CIT(A).

6. The Ld. DR for revenue, though not opposing the prayer of the assessee for restoration, submitted that the assessee had remained non-compliant during the proceedings of first-appeal, which constrained the Ld.

CIT(A) to pass ex-parte order. Further, there is a delay in filing of present appeal also. It was, therefore, submitted that while restoring the matter, appropriate directions may be issued to ensure strict compliance by the assessee including imposition of reasonable cost.

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 Ld. CIT(A), we remand this matter back to the file of Ld. CIT(A) for adjudication afresh, at the risk and responsibility of assessee. The Ld. CIT(A) 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 Ld. CIT(A) without seeking unnecessary adjournments failing which the Ld. CIT(A) shall be at liberty to proceed in accordance with law.

8. **However, we find that the assessee has remained non-responsive before CIT(A) despite as many as 9 opportunities given from 05.03.2020 to 21.06.2024. Further, there is a delay of 469 days in filing present appeal before ITAT. Hence, in order to offset the revenue's efforts in dealing assessee's case and to make the assessee more careful in dealing statutory matters, we impose a cost of Rs. 5,000/- to be paid by assessee to Income-tax Department through appropriate challan. The assessee shall submit a copy of duly paid**

challan to AO during the proceeding of fresh adjudication and shall not claim any credit or refund of such payment.

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

Order pronounced in open court on 17/04/2026

Sd/-

(PARESH M. JOSHI)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक /Dated : 17/04/2026

Patel/Sr. PS

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