IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCHES, “SMC” CHANDIGARH

HEARING THROUGH: HYBRID MODE

BEFORE: SHRI. LALIET KUMAR, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 327 /Chd/2025
निर्धारण वर्ष / Assessment Year : 2022-23

Ram Bhagat Phatela Shop No. 3 C/o Hans Raj Babu Lal II Additional Mandi, Sirsa Haryana-125055	बनाम	The ITO Ward-1, Sirsa
स्थायी लेखा सं. /PAN NO: AZYPP5932H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Lalit Mohan, C.A (Virtual)
राजस्व की ओर से/ Revenue by : Shri Vinod Kumar Chaudhary, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 11/11/2025
उदघोषणा की तारीख/Date of Pronouncement : 12/11/2025

आदेश/Order

PER LALIET KUMAR, J.M

This appeal by the assessee is directed against the order of the Ld. CIT, Appeal Addl/JCIT(A)-4 Mumbai dated 06.01.2025 passed under section 250 of the Income-tax Act, 1961, whereby the appeal of the assessee was dismissed in limine as being barred by limitation for 87 days.

2. The assessee, an individual engaged as a *commission agent (Kachha Arhtiya)* dealing in agricultural produce, filed his return of income for A.Y. 2022-23 on 31.07.2022, declaring an income of Rs.7,91,300/- and claiming TDS credit of Rs.1,13,872/-.

3. The CPC, while processing the return u/s 143(1), granted TDS credit of only Rs.41,634/-, disallowing balance TDS of Rs.72,238/-. The intimation was served on the assessee on 17.02.2023.

4. The assessee filed the appeal before the CIT(A) on 09.06.2023, resulting in a delay of 87 days. The CIT(A) declined to condone the delay, holding that no

sufficient cause was shown and that the delay was due to negligence and inaction.

5. Against the order of the Ld. CIT(A) the assessee preferred an appeal before the Tribunal.

6. During the course of hearing the assessee explained that he had acted bona fide on the advice of the *Income-tax Bar Association, Sirsa*, which had made a representation to the *Pr. Commissioner of Income Tax, Rohtak* regarding similar CPC mismatches in TDS credits for A.Y. 2022-23.

6.1 The *ITO, Ward-1, Sirsa* vide letter dated 06.03.2023 advised the assessee to approach CPC, Bengaluru for rectification, stating that rectification rights were not transferred to the jurisdictional AO. This resulted in confusion about the appropriate remedy. The assessee contended that the delay was neither deliberate nor due to negligence but was caused by a bona fide belief that the matter could be rectified at the CPC level.

7. Per Contra, the Ld. DR supported the order of the CIT(A) and submitted that the condonation of delay is not automatic and must be based on cogent and verifiable evidence showing “sufficient cause.”

7.1 The DR placed reliance on the judgments of the Hon’ble Supreme Court in *MajjiSannemma vs. Reddy Sridevi* [2021 SCC Online SC 1260] and *Ajay Dabra vs. Pyare Ram & Ors.* (SLP No. 15793/2019, dated 31.01.2023), wherein it was held that in the absence of bona fide explanation, delay should not be condoned.

7.2 It was contended that the assessee has not produced any documentary evidence showing that any rectification application was actually filed before CPC, Bengaluru or that any active step was taken within the limitation period.

7.3 The DR, however, fairly submitted that if the Hon’ble Tribunal were to consider the assessee’s explanation as bona fide, then the matter may be restored to the CIT(A) for adjudication on merits, with a direction to decide the issues afresh in accordance with law and keeping in mind the binding precedents of the Chandigarh Tribunal in *Deepak Trading Company vs ITO* (ITA No. 107/Chd/2025, dated 01/*07*/2025) and *ITA No. 44/Chd/2025*, IN THE CASE OF MUKESH VS ITO where similar CPC-related TDS disputes were adjudicated.

8. I have heard both sides and carefully perused the record. It is not in dispute that the assessee's grievance relates merely to non-grant of TDS credit due to a CPC mismatch. The explanation that the assessee was under a bona fide belief that rectification at CPC level was the correct remedy is plausible and consistent with departmental communications dated 06.03.2023, which advised the assessee to approach CPC.

8.1 The Hon'ble Supreme Court in *Collector, Land Acquisition vs. Mst. Katiji& Others* [(1987) 167 ITR 471 (SC)] has laid down that substantial justice should prevail over technical considerations and that a liberal approach should be adopted in condonation of delay when no mala fide intention or deliberate inaction is established.

8.2 The Hon'ble Chandigarh Bench various matters has also consistently condoned delays in filing appeals before CIT(A) where the delay arose due to confusion created by CPC rectification processes.

8.3 In the present case, the delay of 87 days stands satisfactorily explained. There is no evidence of deliberate neglect, and the cause shown by the assessee constitutes "sufficient cause" within the meaning of section 249(3) of the Act. The assessee stands to gain nothing for not pursuing the appeal in time, therefore I condone the delay in filling the appeal before the Ld. CIT(A) .

8.4 Since I have already condoned the delay in filing the appeal before the Ld. CIT(A), and as the Ld. CIT(A) has not adjudicated the grounds on merits, I hereby remit the matter to the file of the Ld. CIT(A) with a direction to decide the appeal afresh on merits, in accordance with law.While adjudicating the appeal in remand proceedings, the Ld. CIT(A) shall keep in view the binding precedents of the Hon'ble ITAT, Chandigarh Bench, in the cases of *Deepak*

Trading Company vs ITO [ITA No. 107/Chd/2025] and *ITA No. 44/Chd/2025*, wherein the Hon'ble Tribunal has laid down the legal position relating to TDS mismatch and CPC processing issues. The Ld. CIT(A) may also consider and apply any other decision of the Hon'ble Tribunal, if the facts of the present case are found to be similar.

9. The Ld. CIT(A) shall further ensure that due and adequate opportunity of being heard is afforded to the assessee before deciding the matter afresh.

10. The delay of 87 days in filing the appeal before the CIT(A) is condoned. The order of the CIT(A) rejecting the appeal on limitation is set aside, and the matter is restored to the file of the CIT(A) for decision on merits in accordance with law and the above observations.

11. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 12/11/2025

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar