



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI
&
HON'BLE SHRI JUSTICE GAJENDRA SINGH
ON THE FIRST OF APRIL, 2025
INCOME TAX APPEAL No.1 of 2025
SHRI NEEL KUMAR AJMERA ALIAS NILESH AJMERA
Versus
*PR. COMMISSIONER OF INCOME TAX INDORE I***

Appearance:

Shri Ashish Goyal – Learned counsel for the appellant.

Shri Harsh Parshar – Learned counsel for the Income Tax.

"Reserved on : 11.02.2025"

"Pronounced on : 01.04.2025"

JUDGMENT

Per: Justice Sushrut Arvind Dharmadhikari

Heard on the question of admission.

2. This appeal under Section 260-A of the Income Tax Act, 1961 has been filed being aggrieved by order dated 23.08.2024 passed by the Income Tax Appellate Tribunal, Indore Bench, Indore in ITA No.234/IND/2024, whereby learned ITAT has dismissed the appeal in *limine* on the ground of limitation, whereby the appeal was filed with a delay of 1797 days.

3. The brief facts of the case are that search and seizure under Section 132 of the Income Tax Act was carried out and Assessment



Order under Section 153A of the Income Tax Act was passed on 30.12.2011 in which the total income was assessed at Rs.65,91,95,580/-. Being aggrieved by the said order, the appellant filed the appeal before Commissioner of Income-Tax (Appeals) {in short "CIT(A)"}. The CIT(A) dismissed the appeal. Being aggrieved, the appellant filed appeal before the ITAT and vide order dated 17.05.2016, the matter was remanded back to Assessing Officer on certain grounds for fresh adjudication. The Assessing Officer passed a fresh order on 27.12.2017. Again being aggrieved by order dated 27.12.2017 passed by CIT(A), the appellant preferred an appeal before the CIT(A). The Appellate Authority dismissed the appeal vide order dated 20.02.2019 for want of prosecution without adjudicating on the merits of the case on the ground that on the dates of hearing neither the appellant was present nor filed any written submission. Being aggrieved by the said order, the appellant preferred appeal before Income Tax Appellate Tribunal, Indore Bench, Indore on 22.03.2024 with a delay of 1797 days. However, the same has been dismissed on the ground of limitation vide order dated 20.08.2024. Hence, this petition.

4. The learned counsel for the appellant submits that earlier, he used to reside at 29-30 Paliwal Nagar, Indore alongwith the family of his real brother for the last 15 years. In the income tax record, same address was disclosed. However, due to misfortune of the appellant, the brother of the assessee was dragged into various civil and criminal litigations. In view of the aforesaid, the appellant alongwith the family members were



also harassed by various creditors and the Government Department including death threats. Various criminal cases were also registered against the appellant. Because of this, the appellant as well as the family of the appellant had to move to Mumbai. During 2018 to 2024 brother of the appellant was either missing, absconding or imprisoned. The appellant in such circumstances could not coordinate properly with his tax consultants. At no point of time, the appellant received any notice from the CIT(A) as well as the order passed by the CIT(A) on 20.02.2019. This fact came to the knowledge of the appellant in the month of year 2024 and thereafter, without causing any delay, appeal was filed being aggrieved by the order of the CIT(A) before the ITAT on 22.03.2024. Out of the delay of 1797 days, the delay between 15.03.2020 to 30.05.2022 (period covered by Covid-19 pandemic) and also looking to the fact that the Apex Court on its own motion in SLP No.3/2020 had condoned the delay due to Covid-19 pandemic, meaning thereby only 990 days remained to be explained.

5. Learned counsel for the appellant further submitted that the appellant filed an application for condonation of delay alongwith an affidavit in the appeal before the ITAT explaining the aforesaid details due to which delay occurred. However, the ITAT without considering the reasons assigned in the application for condonation of delay, rejected his application and refrained from entering into the merits of the case and also dismissed the appeal as barred by time.

6. Learned counsel for the petitioner submitted that the delay was



not because of any negligence or malafides but due to sufficient cause which prevented the appellant from filing the appeal in time. It is also contended that though the delay may be of around 990 days but still the Appellate Authority ought to have seen the cause behind such delay and not the length of delay. In support of his contention, he placed reliance on the judgment of the Apex Court in the case of **Mool Chandra Vs. Union of India and another** reported in (2025) 1 SCC 625.

7. Per contra, learned counsel for the respondent vehemently opposed the prayer and submitted that no sufficient cause has been shown by the appellant in explaining the delay caused in filing the appeal before ITAT, therefore, the appeal deserves to be dismissed on the ground of delay and laches alone.

8. Heard the learned counsel for the parties.

9. The Supreme Court in the case of **Inder Singh Vs. State of Madhya Pradesh** reported in 2025 INSC 382 has held as under:

“There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.”

10. Similarly, the Supreme Court in the case of **Mool Chandra (supra)**, has held as under:

“It is not the length of delay that would be required to be considered while examining



the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of “sufficient cause”, irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned.”

11. In the aforesaid case, the Supreme Court has further held as under:

“if negligence can be attributed to the appellant, then necessarily the delay which has not been condoned by the Tribunal and affirmed by the High Court deserves to be accepted. However, if no fault can be laid at the doors of the appellant and cause shown is sufficient then we are of the considered view that both the Tribunal and the High Court were in error in not adopting a liberal approach or justice oriented approach to condone the delay.”

12. In view of the aforesaid pronouncement of law as well as after going through the reasons assigned for delay in filing the appeal, this Court is of the considered opinion that although a delay cannot be condoned without sufficient cause but the merits of the case cannot be discarded solely on the technical grounds of limitation. A liberal approach should be taken in condoning delays when the limitation



ground undermines the merits of the case and obstructs substantial justice.

13. Hence, this Court finds that the appellant has been able to put forth “sufficient cause” for the delay in filing the appeal before ITAT.

14. Accordingly, the **order dated 23.08.2024** passed by the Income Tax Appellate Tribunal, Indore Bench, Indore in ITA No.234/IND/2024 is hereby **set aside**.

15. The delay in filing an appeal before the ITAT is hereby **condoned**.

16. The matter is remanded back to Income Tax Appellate Tribunal, Indore Bench, Indore and it is directed that the appeal shall be decided afresh in accordance with law on merits after affording reasonable opportunity of hearing to both the parties.

17. With aforesaid direction, the present ITA is hereby **allowed**.

(SUSHRUT ARVIND DHARMADHIKARI)
JUDGE

(GAJENDRA SINGH)
JUDGE