

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES,"SMC" JAIPUR

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA. No.1139/JPR/2025
निर्धारण वर्ष/Assessment Years : 2021-22

Chandra Prakash Vashistha B-235, Meera Path, Vaishali Nagar, Jaipur.	बनाम Vs.	The ITO, Ward-1(4), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AATPV2777Q		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Sunil Porwal, C.A. (through V.C.)
राजस्व की ओर से / Revenue by : Shri Gajendra Singh, Addl. CIT

सुनवाई की तारीख / Date of Hearing : 01/10/2025
उद्घोषणा की तारीख / Date of Pronouncement : 07/10/2025

आदेश / ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

Appellant-assessee, who claims to have got superannuated from State Bank of India, has challenged order dated 18.10.2022, passed by Learned CIT(A), whereby his appeal filed there, while challenging order dated 03.11.2021, passed u/s 143(1) of the Income Tax Act (hereinafter referred to as "the Act"), has been dismissed.

2. The impugned order is dated 18.10.2022. Present appeal came to be presented on 16.08.2025 i.e. much beyond prescribed

period of limitation for 959 days. Along with the appeal, the assessee-appellant filed an application seeking condonation of delay in filing of the appeal.

Accordingly, Ld. AR for the appellant-applicant has firstly advanced arguments on the point of condonation of delay.

The only contention raised by Id. AR for the applicant is that the assessee is an retired employee of a bank having age more than 65 years, who could not present the appeal within the prescribed period of limitation, as he contacted many tax consultants before making up his mind to go for appeal challenging the impugned order. Accordingly, Ld. AR for the applicant-appellant has urged that the delay in filing of the appeal may be condoned.

3. Alongwith the application, the applicant-appellant submitted to his affidavit duly attested before notary public.

4. As noticed above, the applicant-appellant was in the services of the Bank and the matter pertains to retrial benefit i.e. leave encashment, received by him, on his superannuation. When the applicant-appellant states on oath that he contacted many legal experts, which led to delay in filing of the appeal, we deem it a fit case to believe his deposition on affidavit, particularly, when said

deposition goes unchallenged. Consequently, delay in filing of the appeal is hereby condoned.

On merit

5. The only submission put forth by Ld. AR for the appellant is that an amount of Rs. 13,05,810/- was received by the appellant by way of leave encashment benefit in terms of section 10(10)AA of the Act, and that notification dated 24.05.2023 was issued by CBDT whereby the benefit was extended to non government employees by raising the limit to Rs. 25 lakhs and that too with retrospective effect. Therefore, Ld. AR has contended that by not applying the said notification dated 24.05.2023 with retrospective effect, Learned CIT(A) has erred in confirming the assessment order, and argued that the appeal deserves to be allowed.

6. In the course of arguments, Ld. DR for the department has not disputed issuance of notification no. 31/2023/F.No.200/2023-ITA-I dated 24.05.2023 and that the above said limit as regards leave encashment was raised to Rs. 25 lakhs.

7. In view of the notification dated 24.05.2023, which is a piece of evidence in the form of beneficial instructions meant for non government employees, the assessment order and the impugned order, passed by Learned CIT(A) deserve to be set aside.

Result

8. As a result, this appeal is allowed. Assessing Officer to give effect to revised limit of leave encashment. Based on these observations the appeal of the assessee is allowed.

Order pronounced in the open Court on 07/10/2025.

Sd/-

(डा० एस. सीतालक्ष्मी)
(Dr. S. Seethalakshmi)
न्यायिक सदस्य / Judicial Member

Sd/-

(राठोड कमलेश जयन्तभाई)
(Rathod Kamlesh Jayantbhai)
लेखासदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 07/10/2025

*Santosh

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

1. अपीलार्थी / The Appellant- Chandra Prakash Vashistha, Jaipur.
2. प्रत्यर्थी / The Respondent- ITO, Ward-1(4), Jaipur.
2. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 1139/JPR/2025 }

आदेशानुसार / By order

सहायक पंजीकार / Asst. Registrar