

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
MUMBAI BENCH "SMC", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.5215/M/2024  
Assessment Year: 2017-18**

<b>Ms. Siddiqua Begam Hasrat Ali Khan,</b> 903, Sector-R12, Building No.13, Olivia Chandivali, Farm Road, Kurla West, Nahar Amrit Shakti, Maharashtra – 400 072 <b>PAN: AJZPK9891M</b> (Appellant)	Vs.	<b>Income Tax Officer,</b> Ward 41(1)(4), C41-43, G Block BKC, Gilban Area, Bandra Kurla Complex, Bandra East, Maharashtra- 400 051 (Respondent)
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**Present for:**

Assessee by : Shri Niraj Soni, Ld. A.R.  
Revenue by : Shri Srinivas P., Sr. A.R

Date of Hearing :27.11.2024  
Date of Pronouncement :27.11.2024

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 16.08.2024, impugned herein, passed by the National Faceless Appeal Centre/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

**2.** At the outset, it is observed that in the instant case the assessment order dated 10.03.2023 has been passed u/s 147 r.w.s. 144B of the Act, whereby the Assessing Officer (AO) has made the additions of Rs.1,73,00,000/- u/s 69C r.w.s. 115BBE of the Act as well as of Rs.3,65,114/- u/s 56(2)(vii)(b) of the Act being difference between the purchase consideration and stamp duty value.

**3.** The Assessee, being aggrieved, challenged the said additions as well as reopening of the case before the Ld. Commissioner by filing the first appeal, however, with a delay of 144 days in filing the appeal. The Assessee before the Ld. Commissioner with regard to the delay has submitted that the erstwhile legal consultant of the Assessee was dealing with the Assessee's case and due to miscommunication/non-communication the appeal could not be filed within the due date which resulted into delay. The delay occurred was neither intentional nor malafide but because of the aforesaid reasons. The Assessee submitted that though the Assessee has demonstrated before the Ld. Commissioner the reason for delay, however, the Ld. Commissioner has not accepted the same and dismissed the appeal of the Assessee in limine and without condoning the delay, therefore, this Hon'ble Court is prayed to take a lenient view and condone the delay and decide the appeal on merit as the Assessee has plausible case on merits.

**4.** On the contrary, the Ld. D.R. refuted the claim of the Assessee.

**5.** Heard the parties and perused the material available on record. The reason stated for the delay occurred that due to miscommunication/non-communication the appeal could not be filed within the due date, does not appear to be convincing however, appears to be bonafide and unintentional, and therefore for the just decision and substantial justice, this Court is inclined to condone the delay, however subject to deposit of Rs.5,500/- in the Revenue Department under "other heads" and without claiming any disallowance/exemption of this amount, but within 30 days from the date of receipt of this order. Thus, for the just decision and substantial justice, the impugned order is accordingly set aside and the case is remanded to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee in the aforesaid terms. It is clarified that in case of subsequent default, the Assessee shall not be entitled for any leniency.

**6.** In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

**Order pronounced in the open court on 27.11.2024.**

**Sd/-  
(NARENDER KUMAR CHOUDHRY)  
JUDICIAL MEMBER**

\* Kishore, Sr. P.S.

Copy to: The Appellant  
The Respondent  
The CIT, Concerned, Mumbai  
The DR Concerned Bench  
//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.