

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C" MUMBAI**

BEFORE SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)

AND

SHRI OMKARESHWAR CHIDARA (ACCOUNTANT MEMBER)

**ITA No. 5974/MUM/2024
Assessment Year: 2011-12**

Punam Vishnuraj Motwani
B/202, Lodha Imperia, LBS
Marg, Bhandup,
Mumbai - 400078.

Vs.

ITO 27(2)(5),
ITO 27(2)(5), Tower No. 6,
Vashi Railway Station
Commercial Complex,
Vashi,
Navi Mumbai - 400703.

**PAN NO. ANZPM9140D
Appellant**

Respondent

Assessee by : Shri Venugopa C. Nair
Revenue by : Shri Mahesh Pamnani, Sr. DR

Date of Hearing : 02/01/2025
Date of pronouncement : 21/01/2025

ORDER

PER OMKARESHWAR CHIDARA, AM

This appeal by the assessee is directed against order dated 18/09/2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)'] for assessment year 2011-12.



2. In the above captioned appeal, the appellant has filed an appeal for A.Y. 2011-12 with the following Grounds of Appeal :

“1. The Learned CIT (A) erred in facts and circumstances and in law in confirming Penalty that AO had levied u/s 271(1)(b), by refusing to condone a delay which itself was non-existent, when computed from service of notices.

2. The Learned CIT (A) erred in facts and circumstances and in law in confirming Penalty that AO had levied u/s 271(1)(b) when the appellant served with any notice as the residence to which notices were served had been sold, precisely on receipt of information of which the assessment was framed.

The Appellant craves leave to amend, alter, modify or omit any of the aforesaid grounds of Appeal as occasion may arise or demand.”

3. The AR of appellant has submitted that the appellant is a senior citizen and she doesn't know the intricacies of Income Tax Act. She has never filed Return of Income nor she had registered with Income Tax portal. She sold an old immovable property and invested the entire sale consideration by acquiring another immovable property. As the appellant has not given her “changed address” to Income Tax Department, the notices were sent to that old address and she was never aware of these notices, consequently couldn't respond to the same. As the main appeal u/s. 143(3) r.w.s. 144 is still pending, it was requested that one more opportunity may be given to her to substantiate her case. Per contra, Ld. DR has argued that in view of the detailed order of Ld. CIT(A) and also because of continuous non-compliance of assessee, the penalty shall be sustained.



4. After hearing the rival submissions, it is decided the assessee is given one more opportunity to the appellant for the following reasons:

- a) The appellant is a senior citizen and her bonafides for not responding to the notices u/s. 143(2)/142(1) are not in doubt because she has not received any of these notices. Of course, the Department could not be found fault since the appellant has not furnished “new address”.
- b) The main appeal which deals with Capital Gains is still pending with Ld. CIT(A) for adjudication and thus penalty appeal may have some bearing on the main appeal in the sense, if it is held that there is no taxable income, then appellant would have better chance to substantiate her case.

5. Accordingly, the appellant is directed to co-operate with Department on the disposal of main appeal and this penalty appeal.

6. As it was held that appellant would be given one more chance, the case is remitted to Ld. CIT(A) and the Ld. CIT(A) is directed to dispose of the main appeal of levability of Capital Gains and then decide this penalty appeal.



7. The appeal of appellant is allowed for statistical purposes.

Order pronounced in the open Court on 21/01/2025.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Mumbai;
Dated: 21/01/2025
Poonam Mirashi,
Stenographer

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai