

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH MUMBAI

**BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 396/MUM/2025
Assessment Year: 2018-19**

Priyal Jatin Manik 8/20, Blue Sea Apartment, Juhu Tara Road, Juhu Vile Parle West, Mumbai – 400049. (PAN: AUDPM9949B)	Vs.	Income-tax Officer, Ward 34(3)(2) Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Vishal Shah
and Ms. Bhavisha Jain, ARs

Revenue : Shri R. A. Dhyani, CIT DR

Date of Hearing : 04.03.2025

Date of Pronouncement : 07.03.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the Assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2023-24/1056531163(1), dated 26.09.2023, passed against the assessment order by National e-Assessment Centre,

Delhi, u/s. 144 r.w.s. 144B of the Income-tax Act (hereinafter referred to as the "Act"), dated 21.04.2021 for Assessment Year 2018-19.

2. Grounds taken by the assessee are reproduced as under:

"1. On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in passing an Order u/s 250 of Income Tax Act, 1961, which is bad in law.

2. On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in confirming the Assessed Total Income of Rs. 14,42,87,350/- as against Returned Income of Rs. 15,65,598/- by confirming an addition of Rs. 14,27,21,754/- made by the Assessing Officer on account of unexplained Investment u/s 69 r.w.s. 1158BE, which is bad in law.

3. On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) failed to appreciate and consider the fact that the notices issued u/s 250 dated 09.08.2023, 17.08.2023 and 05.09.2023 seeking submissions were not received by the appellant in any of the designated email ids, and it is not possible for the appellant to monitor the same, time and again through repeated logins.

4. On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) failed to appreciate and consider the fact that as the above-mentioned notices were not received/not communicated to the appellant, the appellant was not awarded necessary opportunity of being heard which is against the principle of natural justice and hence was unable to respond to the issued notices in a timely and appropriate manner.

Without Prejudice

5. a) On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in confirming the action of Assessing Officer of making as addition of the entire Peak Balance/investment during the year as disclosed in the Return of Income without appreciating the fact that the same is in the nature of an Asset and not Income, hence the addition of peak balances is bad in law.

b) On the facts and circumstances of the case and in law the learned Commissioner of Income Tax (Appeals) erred in confirming the action of Assessing Officer in adding Peak Balance/investment to the income of the appellant without appreciating the fact that the appellant owns the assets out of the income earned outside India while the appellant was a non-resident and out of the gift received by her outside India.

c) On the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in confirming the action of Assessing Officer by not appreciating the fact that the Appellant had made full disclosure in

her Foreign Assets Including the signatory details in its ROI under the FA Schedule, without any malicious intention to conceal such information, hence the addition of the entire peak balance is bad in law.”

3. At the outset, we note that there is a delay of 418 days in filing the present appeal before the Tribunal for which petition for condonation of delay along with affidavit is placed on record. In the said petition, it is submitted by the assessee that she was a salaried employee working in India and filed her regular return of income in Assessment Year 2018-19 reporting total income at Rs.15,65,598/-. She was a non-resident from the year 2007 till 2013 during which she was a resident in Dubai earning income from salary. Later she got married during the year 2013 and returned to India after which she got the status of resident.

3.1. Case of the assessee was selected for limited scrutiny for Assessment Year 2018-19. Notices including the impugned assessment order were sent on the email ID of the Accountant and assessee remained unaware of such notices and order. Assessment was completed on 24.04.2021 which was the period of Covid Pandemic. It is explained by the assessee that here Accountant left during this phase and therefore the notices sent on the email ID of the Accountant could not be attended. Later, on the advice of tax consultant, assessee was made aware of the regulatory requirement to comply with the order passed against her, hence the delay of 418 days in filing the present appeal. We have considered the petition for condonation of the said delay. Upon perusal of the same and hearing both sides, we deem it fit to condone the delay on the ground that there was sufficient cause for the said delay. Accordingly, we condone the delay to take up the matter for adjudication.

4. On the merits of the case, the reason for selection for scrutiny assessment is stated to be that assessee holds foreign assets in the form of bank accounts where assessee is a signing authority. Details of the said bank accounts is tabulated below-

<i>Sr.No.</i>	<i>Name of the Institution in which the account is held</i>	<i>Address of the Institution</i>	<i>Name of the account holder</i>	<i>Account Number</i>	<i>Peak Balance/ Investment during the year</i>
1.	Bank of Baroda	Dubai Mail PO box 3162, Govt. of Dubai Real Estate Bldg. Bur, Dubai, UAE	Oneiro Consultancy FZE	90010200027656	1,92,78,538
2.	Bank of Baroda	Dubai Mail PO box 3162, Govt. of Dubai Real Estate Bldg, Bur, Dubai, UAE	Oneiro Consultancy FZE	90010200025852	6,83,34,975
3.	Bank of Baroda	Dubai Mail PO box 3162, Govt. of Dubai Real Estate Bldg, Bur, Dubai, UAE	Priyal Mansukhani	90010200027539	3,56,43,687
4.	Bank of Baroda	Dubai Mail PO box 3162, Govt. of Dubai Real Estate Bldg, Bur, Dubai, UAE	Priyal Mansukhani	90010200027682	1,94,64,554
<i>Total</i>					<i>14,27,21,754</i>

5. In this respect, ld. Counsel submitted that in the return filed by the assessee, these four bank accounts have already been disclosed and reported in Schedule FA in Row "E" for which the relevant documents are placed on record in the paper book. According to him the foreign assets namely, four bank accounts to which assessee is a signing authority, have been duly reported in the return but explanations called for by the Assessing Officer could not be furnished owing to the notices being served on the email ID of Accountant, who had left the job of the assessee, as already explained above, while dealing with request for condonation of delay. Based on these facts, ld. Counsel for the assessee prayed for remitting the matter back to the file of ld. Assessing Officer for *denovo* meritorious adjudication of the issues raised for scrutiny assessment by giving an assurance that all the necessary compliances shall be fulfilled once an opportunity is given. He also assured that the email IDs have been appropriately changed, so that any communication in this respect is not missed by the assessee. Order of ld. CIT(A) is also *ex parte*, since notices sent for hearing could not be attended for the similar reasons as stated above.

5.1. Considering the overall factual matrix and the circumstances of the case, in the interest of justice and fair play, we find it appropriate to remit the matter back to the file of ld. Assessing Officer for *denovo* meritorious adjudication and assessment, after taking into account the submissions made by the assessee. Assessee is at liberty to furnish all the documents and details to substantiate her claim for which necessary opportunities be given.

6. Since the matter is restored to the file of Ld. Assessing Officer for meritorious adjudication by passing a speaking order in terms of our

observations made hereinabove, we are not expressing any views on the merits of the case so as to limit the assessment procedure before the Ld. Assessing Officer. The observations herein made by us in remanding the matter back to the file of Ld. Assessing Officer will not impair or injure the case of the Revenue nor will it cause any prejudice to the defence/explanation of the assessee.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 07 March, 2025

Sd/-
(Beena Pillai)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 07 March, 2025

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai