

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.217/M/2025
Assessment Year: 2017-18**

Mr. Ajay Dalsukhlal Goradia, Ploat No.24, Happy Home Society, Dunhill Arch, Second Floor, Nehru Road, Vile Parle East, Mumbai Maharashtra - 400 057 PAN: ADYPG3216B	Vs.	Income Tax Officer, Jurisdiction Ward 23(1)(6), Piramal Chambers, Mumbai, AO Type W, AO Number 6, Range Code 199, Mumbai Maharashtra- 400 012
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Anil Sathe, Ld. A.R.
Revenue by : Shri Ram Krishn Kedia, Ld. Sr. D.R.

Date of Hearing : 20 . 02 .2025
Date of Pronouncement : 25 . 03 .2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 30.03.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. In the instant case, the impugned order was passed on 30.03.2023 and the same was served upon the Assessee on the very same date, however, the Assessee has filed this appeal on dated 10.01.2025, with a delay of 593 days. The Assessee has

claimed that he had undertaken angioplasty and his wife also suffered from neuron bathik disorder, who was required to be taken care of at house, as she is suffering from various other diseases i.e. schioaffective Pschoses, Hypertension, Diabetes, renal stone and a spinal fracture in June 2024. The Assessee also filed various documents such as discharge summary/card dated 26.12.2022, consulting prescription dated 21.09.2023, discharge summary dated 13.10.2023, discharge summary dated 21.10.2023, medical prescription dated 24.04.2024 & 24.06.2024, discharge summary 28.06.2024, discharge summary dated 19.07.2024 & initial assessment sheet dated 05.08.2024, in order to establish the genuineness of medical exigencies.

3. On the contrary, the Ld. D.R. refuted the claim of the Assessee and submitted that there is a huge gap between the medical exigencies and filling of appeal therefore the Assessee is not entitled for any relief qua condonation of delay.

4. We have given thoughtful considerations to the peculiar facts and circumstances of the case. Admittedly from the medical documents referred to above, it is clear that the Assessee and his wife were suffering/are suffering from various ailments, which requires constant care and therefore there is a logic behind the delay in filing of the instant appeal. Hence, considering the reasons stated by the Assessee, as genuine and bonafide we, for the substantial justice, are inclined to condone the delay. **Thus, the delay is condoned.**

5. Now coming to the merits of the case, we observe that in the instant case, the Assessing Officer (AO) vide assessment order dated 28.12.2019 u/s 143(3) of the Act has made the additions of Rs.9,96,280/- on account of disallowance of deductions claimed qua

income from house property and Rs.54,11,000/- as unexplained money u/s 69A r.w.s. 115BBE of the Act.

6. The Assessee, being aggrieved, challenged the said additions before the Ld. Commissioner, however, in spite of affording various opportunities, made no compliance. Therefore, the Ld. Commissioner in the constrained circumstances, dismissed the appeal of the Assessee, eventually affirming the additions made by the AO.

7. We have given thoughtful considerations to the peculiar facts and circumstances of the case. We have observed above that the Assessee has filed the relevant medical documents pertaining to 2022 to 2024 and it is a fact that initial notices were issued during Covid-19 period and thereafter in the month of August 2022 and March 2023. And therefore non-appearance of the Assessee before the Ld. Commissioner appears to be genuine, bonafide and unintentional and thus considering the peculiar facts and circumstances in totality, specifically to the effect that the Assessee and his wife were/are suffering from various serious ailments, during the appellate proceedings before the Ld. Commissioner and this Court as well and it is a fact that the Ld. Commissioner has decided the appeal of the Assessee as ex-parte and dismissed the same in limine, which resulted into non-adjudication of the issues involved on merits and therefore for just and proper decision of the case and substantial justice , we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee. **Thus, the case is remanded to the Ld. Commissioner accordingly.** We clarify that in case of subsequent default, the Assessee shall not be entitled for any leniency.

8. In the result, the appeal filed by the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 25.03.2025.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**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.