

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

**BEFORE: SHRI SANDEEP GOSAIN, JUDICIAL MEMBER  
&  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 1186/MUM/2025  
(Assessment Year: 2013-14)**

Ajay Paharia HUF 202, Jaymala Apartment, Marve Road, Malad West, Mumbai-400064.	Vs.	Deputy Commissioner of Income Tax, Circle 41(3)(1), Kautilya Bhavan, Bandra Kurla Complex, Mumbai-400051.
<b>PAN/GIR No. AAJHA2035C</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri. Dharan Gandhi
Revenue by	Shri. Aditya Rai (Sr. DR)
<b>Date of Hearing</b>	<b>11/06/2025</b>
<b>Date of Pronouncement</b>	<b>17/06/2025</b>

**आदेश / ORDER**

**PER SANDEEP GOSAIN (J.M):**

1. This appeal has been preferred against the impugned order dated 24.07.2024 passed in Appeal no. CIT(A) 41, Mumbai/10431/2016-17 by the Ld. Commissioner of Income-tax(Appeals)/ National Faceless Appeal Centre (NFAC) [hereinafter referred to as the "CIT(A)"] u/s. 250 of the Income-Tax Act, 1961 [hereinafter referred to as "Act"] for the Assessment year [A.Y.] 2013-14

2. At the very outset, we notice that the present appeal is time barred and in this regard Ld. AR has drawn our attention to the affidavit filed by the assessee for seeking condonation of delay in filing the present appeal.
  
3. After having gone through the contents of the affidavit and also after hearing the parties on question of condoning the delay, we found that it has been specifically mentioned in the affidavit that the order of Ld. CIT(A) was sent to the registered e-mail. However, it unfortunately ended up in the spam folder of registered e-mail account. It was further submitted that since the assessee was not regularly checking his e-mail address. Therefore, was unaware about the receipt of the order, which lead to filing the appeal beyond the prescribed limit.
  
4. After having heard the parties and considering the entire facts as explained before us and also keeping in view the principles laid down by Hon'ble Supreme court in the case of Land Acquisition Collector Vs. MST Kitji and others 1987 AIR 1353(SC), wherein it has been held that where substantial justice is pitted against technicalities of non-deliberate delay, then in that eventuality substantial justice is to be preferred. In our view the principle of advancing substantial justice is of prime importance, hence considering the explanation put fourth by the assessee by justifiably and properly explaining the delay, which occurred in filing the appeal and construing

the expression “sufficient cause” liberally, we are inclined to condone the delay in filing the appeal before us. Consequently, we condone the delay and admit the appeal to be heard on merit.

5. After hearing the parties on the main appeal, we notice that assessee was ex-parte before Ld. CIT(A) and could not submit any details to substantiate/support its ground of appeal and in this regard Ld. AR drawn out attention to the detailed affidavit wherein it has been categorically mentioned that the information regarding the notices issued by Ld. CIT(A) were sent on the e-mail Id of the CA however because of certain dispute with the CA, the notices and the orders passed by CIT(A) were not communicated to the assessee. It was also submitted that the assessee remained under bonafide belief that matter is pending before CIT(A) and no order has been passed.
  
6. After having gone through the entire factual position as put forth by the parties before us we are of the view that the ends of justice would be met in case the issues between the parties are decided on merits after providing fair opportunity of hearing to both the parties. Therefore, considering the above factual position in mind, we restore the matter back to the file of Ld. CIT(A) to decide the matter afresh on merits after providing opportunity of hearing to the parties. Subject to cost of Rs. 2000/- imposed upon the assessee for remaining

negligent in pursuing the appeal before CIT(A) and also for filing the appeal before the bench after the prescribed period of limitation. The said amount shall be deposited in the Prime Minister Relief fund with a receipt to be placed on CIT(A)'s file within 30 days from the date of receipt of this order. The assessee shall not seek any adjournment on frivolous grounds before CIT(A) and shall remain co-operative during the course of proceedings.

7. Before parting, we make it clear that our decision to restore the matter back to the file of CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the CIT(A) independently in accordance with law.
8. Consequently, this appeal is allowed for statistical purposes.

Order pronounced in open court on 17.06.2025.

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

**ACCOUNTANT MEMBER**

Mumbai; Dated 17/06/2025

Anandi Nambi, *Steno*

**Copy of the Order forwarded to:**

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

**Sd/-**  
**(SANDEEP GOSAIN)**

**JUDICIAL MEMBER**

5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**