

IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
& SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER
ITA No. 2262/MUM/2025 (AY : 2011-12)

(Physical hearing)

RavindraSadanandMarballi B-6, Shreeniketan, Pandurangwadi, Goregaon East, Maharashtra – 400063. [PAN No. ALMPM2657E]	Vs	ITO-31(3)(1), Mumbai KautilyaBhavan, BandraKurla Complex, Maharashtra-400051
Appellant / Assessee		Respondent / Revenue

Assessee by	Sh. Ashish Thakurdesai, CA
Revenue by	Sh.Umashankar Prasad, CIT-DR
Date of hearing	24.06.2025
Date of pronouncement	24.06.2025

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee is directed against the order of Id. CIT(A) 07.02.2025 for A.Y. 2011-12. The Id. CIT(A) dismissed the appeal of assessee in limine by not condoning the delay of 30 days in filing first appeal.
2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that assessment was completed under section 144 on 12.12.2018. The assessee could not make compliance due to change of local address and the assessee was out of India. Before Id. CIT(A), the assessee filed appeal on 13.12.2019. There was a delay of 30 days in filing first appeal, the assessee filed application for condoning the delay. The assessee also filed application for admission of additional evidence and additional submission. The Id. CIT(A) accepted the additional evidence and remanded the matter to assessing officer for seeking his remand report. Before assessing officer, the assessee furnished requisite

details during remand proceeding. However, the appeal of assessee was dismissed in limine by Id. CIT(A) by taking view that assessee has not shown sufficient cause for condonation of delay. Resultantly, appeal of assessee was dismissed as unadmitted / in limine. The Id. AR of the assessee submits that delay in condoning appeal before Id. CIT(A) was neither intentional nor deliberate. The case of assessee was reopened under section 147. During the relevant period, assessee was out of India. The assessee was in Muscat. The assessee sold his asset / immovable property in Goregaon and purchased another housing property in Mysore, Karnataka. The parents of assessee were senior citizen and was residing in Goregaon with his brother. The old aged parent of assessee were suffering from various age related ailment. The assessee used to look after them and engaged tax consultant, Ajit Gupte Chartered Accountant (CA) who himself was also more than 70 years old. He took time to file appeal, thus there was delay of 30 days. Delay was neither intentional nor deliberate. The assessee is really interested in pursuing appeal on merit. The assessee has good case on merit and is likely to succeed if his case is heard on merit. The Id. AR submits that matter may be restored back to the file of assessing officer direction to allow fair and reasonable opportunity to the assessee. He undertake on behalf of assessee to be more vigilant in making timely compliance.

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue.
4. We have considered the rival submissions of both the parties and perused the order of lower authorities carefully. We find that assessment was completed

on 12.12.2018. The assessing officer proceeded under section 144 by holding that despite service of show cause notice, the assessee failed to attend the proceeding. The assessing officer made addition of Rs. 53,50,000/- on account of sale of immovable property. The assessing officer treated the sale proceed of immovable property to the total income of assessee by holding that assessee failed to furnish details of property. The Id. CIT(A) dismissed the appeal of assessee by not condoning the delay of 30 days in filing appeal. Before us, the Id. AR of the assessee has explained the cause of delay which we have recorded above. Considering the fact that delay is only of 30 days which is not inordinate. The assessee is really interested in pursuing his case on merit Considering the facts of the case, we find that delay in filing appeal before Id. CIT(A) was not intentional, hence, the delay of 30 days is condoned. Further, considering the fact that lower authorities have not examined the case of assessee on merit, therefore, matter is restored back to the file of assessing officer to pass the order afresh. Needless to direct that before passing the order, the assessing officer shall allow reasonable and fair opportunity to the assessee. The assessee is also directed to be more vigilant in future in making timely compliance. In the result, grounds of appeal raised by assessee are allowed for statistical purposes.

5. In the result, the appeal of assessee is allowed for statistical purpose.

Order was pronounced on 24.06.2025 at the time of hearing of appeal.

Sd/-

**PRABHASH SHANKAR
ACCOUNTANT MEMBER**

MUMBAI, Dated: 24/06/2025
Biswajit

Sd/-

**PAWAN SINGH
JUDICIAL MEMBER**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar
ITAT, Mumbai