

IN THE INCOME TAX APPELLATE TRIBUNAL

"K (SMC)" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, ACCOUNTANT MEMBER

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No.6296/MUM/2024

(Assessment Year : 2010-11)

Arunkumar Ramchand Poptani,

302, Manwani Mension Gaol Maidan,

Ulhasnagar,

Thane - 421001

PAN : AAXPP8396B

..... Appellant

v/s

ITO, Ward - 2(1),

Mohan Plaza,

Kalyan,

..... Respondent

Assessee by : Shri Satyaprakash Singh

Revenue by : Shri Bhagirath Ramawat, Sr.DR

Date of Hearing – 25/06/2025

Date of Order - 26/06/2025

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 15/09/2024, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2010-11.

2. The present appeal is delayed by 2 days. Along with the appeal, the assessee has filed an affidavit seeking condonation of delay in filing the appeal. In the affidavit, it is submitted that the impugned order was received

by the assessee on 15.09.2024, and the appeal was due to be filed before the Tribunal on 15.11.2024. It is further submitted that the assessee by inadvertence, filed the appeal before the Pune Bench of the Tribunal on 30.09.2024, which was dismissed vide order dated 26.11.2024 due to lack of territorial jurisdiction. The assessee further submitted that immediately thereafter, the assessee filed the present appeal before the Mumbai Bench of the Tribunal, which has jurisdiction over the present appeal. Having perused the affidavit filed by the assessee and the supporting document, we are of the considered view that there was sufficient cause which prevented the assessee from filing the present appeal within the prescribed limitation period. Accordingly, we condone the delay in filing the present appeal and proceed to decide the same on the merits.

3. In this appeal, the assessee has raised the following grounds: -

"1. The order dated 15/09/2024 bearing No. ITBA/NFAC/S/250/2024-25/1068711618(1) passed under section 250 of the Income Tax Act, 1961 by the Hon'ble CIT(Appeals), National Faceless Appeal Centre (NFAC), Delhi, is excessive, unreasonable, arbitrary, against the provisions of Income Tax Act, 1961 and therefore liable to be quashed.

2. The delay in filing the present appeal, being beyond the control of the Appellant and in the interest of the justice may kindly be condoned.

3. On facts and circumstances of the case and in law, the Honourable CIT (Appeal) NFAC, Delhi has erred in not condoning the delay and dismissed the appeal of the Appellant even after calling for the Remand Report from the JAO.

4. On the facts and in circumstance of the case and in law, the Hon'ble CIT[A] has erred in confirming the addition of Rs.36,56,409/- on account of cash deposit in the bank, even though the same is fully explainable with documentary evidence submitted and Remand Report from the Assessing Officer was called."

4. Having considered the submissions of both sides and perused the material available on record, we find that in the present case, the assessee

did not file his original return of income. On the basis of the information available on the AIR that the assessee has deposited cash of Rs.14,46,400/- in his savings bank account and made repayment of credit card bills of Rs.14,84,652/-, proceedings under section 147 of the Act were initiated and notice under section 148 of the Act was issued on 31.03.2017. It is evident from the record that the assessee did not file any return in response to the aforesaid notice and also did not comply with the statutory notices issued under section 142(1) of the Act. Accordingly, the assessment was completed on the basis of the material available on record under section 144 of the Act. Vide order dated 12.13.2017 passed under section 144 r.w. section 147 of the Act, the AO treated the cash deposits as unexplained money of the assessee and added the same to the total income of the assessee under section 68 of the Act.

5. From the perusal of the impugned order, we find that the learned CIT(A) dismissed the appeal filed by the assessee as the assessee could not explain the delay of 306 days in filing the appeal before the learned CIT(A). From the perusal of Form No.35 filed by the learned CIT(A), we find that the assessee has not mentioned any reason for seeking condonation of delay in filing the appeal before the learned CIT(A).

6. In the present appeal, the assessee is duly represented by the learned Authorised Representative and wishes to pursue the litigation. Accordingly, in the larger interest of justice, we deem it appropriate to restore the appeal to the file of the learned CIT(A), granting another opportunity to the assessee to explain the delay in filing the appeal before the learned CIT(A). The learned

CIT(A) is directed to consider the application, if so filed by the assessee, for seeking condonation of delay and decide the same as per law and proceed accordingly. With the above directions, the impugned order is set aside, and the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 26/06/2025

Sd/-

**NARENDRA KUMAR BILLAIYA
ACCOUNTANT MEMBER**

Sd/-

**SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 26/06/2025

Prabhat

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