

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "G" BENCH : MUMBAI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

ITA No. 4443/Mum/2025  
Assessment Year : 2022-23

Sachchiyay Mata Bullion Pvt. Ltd., Shop No. 25, Patwa Chawl, Shaikh Menon Street, Zaveri Bazaar, Mumbai-400002. PAN : ABFCS4174C	vs.	Income Tax Officer, Ward-4(3)(1), 648, Aayakar Bhavan, M.K. Road, Mumbai-400020.
(Appellant)		(Respondent)

Assessee by : Shri Devendra Jain  
(*Virtually appeared*)

Revenue by : Shri Bhagirath Ramawat, Sr.DR

Date of Hearing : 18-07-2025

Date of Pronouncement: 22-07-2025

**ORDER**

**PER VIKRAM SINGH YADAV, A.M :**

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 23-05-2025, pertaining to Assessment Year (AY) 2022-23, wherein the Ld.CIT(A) has confirmed the order passed by the Assessing officer u/s. 143(3) r.w.s. 260 r.w.s. 144B of the Income Tax Act, 1961 (‘the Act’), dt. 30-07-2024 and has sustained the addition of Rs. 5,40,97,148/- u/s. 68 of the Act and an amount of Rs. 18,84,08,811/- u/s. 37(1) of the Act.

2. During the course of hearing, the Ld.AR submitted that the Ld.CIT(A) has held that there was a delay of 67 days in filing the appeal and in absence of any application moved by the assessee, explaining the reasons

for the delay and seeking condonation of delay, the delay was not condoned and the appeal was not admitted. It was submitted that in the statement of facts submitted before the Ld.CIT(A), the assessee brought to the notice of the Ld.CIT(A) that the assessee has approached the Hon'ble Bombay High Court, challenging the assessment proceedings by filing a Writ Petition bearing No. 27686 of 2024 and the Hon'ble Bombay High Court vide order dt. 07-10-2024 has allowed the assessee to withdraw the petition with the liberty to approach the appellate authority and in paragraph No. 3 of its order, the Hon'ble High Court has specifically stated that "*where the appeal is filed by the petitioner within four weeks from today, let the same be decided without any objection as to limitation as the petitioner was a bonafide, pursuing the present proceedings*". It was submitted that in spite of bringing the directions of the Hon'ble Bombay High Court that the assessee be permitted to file the appeal within four weeks from the date of the order, the Ld.CIT(A) has dismissed the appeal of the assessee. It was submitted that the order of the Hon'ble Bombay High Court was pronounced on 07-10-2024 and the assessee has filed the appeal before the Ld.CIT(A)-NFAC, Delhi on 04-11-2024. Therefore, the appeal is filed within the period of four weeks as so directed by the Hon'ble Bombay High Court. It was accordingly submitted that and the findings of the Ld.CIT(A) be set aside and the matter may be remitted to the file of the Ld.CIT(A) to decide the same afresh, after providing necessary opportunity to the assessee.

3. Per contra, the Ld.DR taken us through the findings of the Ld.CIT(A) and it was submitted that as the assessee has nowhere mentioned in Form-35 that there was a delay in filing the appeal nor any reasons or an application has been filed seeking condonation of delay, the Ld.CIT(A) has rightly held that the delay so happened in filing the appeal cannot be

condoned. It was further submitted that the Ld.CIT(A) has thereafter decided the matter on merits as well.

4. We have heard the rival contentions and perused the material available on record. As evident from the order of the Hon'ble Bombay High Court (supra), the assessee has been permitted to pursue the matter before the appellate authority within four weeks of passing of the said order and it has also been directed by the Hon'ble Bombay High Court that where the assessee files the appeal within four weeks from the date of the order, the same has to be decided without any objection as to the limitation. In the instant case, admittedly the appeal has been filed on 04-11-2024 i.e., within the stipulated time frame as so directed by the Hon'ble Bombay High Court and following the same, the findings of the Id CIT(A) on the delayed filing of appeal are hereby set-aside. Further, we are unable to comprehend the situation where the delay has not been condoned, effectively resulting in appeal of the assessee not been admitted by the Id CIT(A) and at the same time, the Ld.CIT(A) has gone ahead and decided the matter on merits. It is only where the appeal has been admitted, the matter may be decided on merits. In view of the same, we deem it appropriate to set aside the matter to the file of Ld.CIT(A) to decide the same afresh on merits as per law, after providing a reasonable opportunity to the assessee.

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

Order pronounced in the open court on 22-07-2025

Sd/-  
[SAKTIJIT DEY]  
VICE PRESIDENT  
Mumbai, Dated: 22-07-2025  
TNMM

Sd/-  
[VIKRAM SINGH YADAV]  
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai