

**IN THE INCOME-TAX APPELLATE TRIBUNAL “K(SMC)” BENCH,
MUMBAI
BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.4120/MUM/2025
(निर्धारण वर्ष/Assessment Year :2011-12)**

Prasad Narayan Dhulap Flat No. A/801, Satyam Arcade Plot No. 26 Sector 21 Kamothe, Panvel 410209	v/s. बनाम	Income Tax Officer Ward 27(2)(1), Mumbai IT Office, Vashi Railway Station Building, Navi Mumbai 400703
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AXTPD5548C		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

निर्धारिती की ओर से /Assessee by:	Ms. Anuradha K. Jethi
राजस्व की ओर से /Revenue by:	Shri. Bhagirath Ramawat (SR DR)

सुनवाई की तारीख / Date of Hearing	28.07.2025
घोषणा की तारीख/Date of Pronouncement	30.07.2025

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “CIT(A)”] dated 08/06/2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2011-12.

2. The assessee has raised the following grounds of appeal:

“1. On the facts and in the circumstances of the case and in law, the learned CIT(A), NFAC erred in dismissing the appeal filed the appellant on the grounds of non-compliance without adjudicating the appeal on merits.

2. On the facts and circumstances of the case and in law, the learned CIT(A), NFAC erred in not appreciating that notice u/s 148 has been issued in a mechanical manner without any evidence that the appellant had made any investment in the immovable property, where he was only a second holder, his mother being the first holder.

3. On the facts and circumstances of the case and in law, the learned CIT(A), NFAC erred in not appreciating that appellant was around 19 years of age and pursuing his studies in the financial year relevant to AY 2011-12 and had no taxable income.

4. On the facts and circumstances of the case and in law, the learned CIT(A), NFAC erred in not appreciating that addition of entire investment of Rs.31,41,900/- made u/s 69A of Income Tax Act in the hands of the appellant was unjustified.

5. On the facts and circumstances of the case and in law, the learned CIT(A), NFAC erred in not appreciating that the addition of Rs.1,60,000/- is made by the assessing officer only on surmise and guess work that the basic exemption limit of Rs.1,60,000/- is consumed by the appellant.

The appellant seeks leave to add, modify or delete any grounds of appeal.”

3. Brief facts of the case are that the assessee did not file his return of income for AY 2011-12. On the basis of information available with the department regarding purchase of immovable property, the case was reopened and notice u/s. 148 was issued on 28.03.2018. As there was no compliance by the assessee to various notices issued by Ld. AO, the assessment was completed u/s. 144 r.w.s. 147, after adding Rs. 31,41,900/- u/s. 69A of the Act, being unexplained investment in the immovable property. Aggrieved with the order of Ld. AO, the assessee preferred an appeal before the Ld. CIT(A). As no compliance was made to various notices issued by Ld. CIT(A), the appeal was dismissed ex-parte vide order dated 08.06.2023. The assessee has now preferred an appeal before the Tribunal.

4. At the outset it is noticed that the appeal is delayed by 655 days. An affidavit or condonation of delay has been filed by the assessee explaining the circumstances resulting in the inordinate delay. Ld. AR has submitted that the assessee was around 19 years of age at the relevant time and could not understand and attend to the tax proceedings properly. He has also explained in the affidavit that he had engaged a counsel for attending to the assessment as well as appellate proceedings. However, he could not take requisite action due to his age and ill health. The assessee came to know about the ex-parte dismissal of his appeal by Ld. CIT(A) upon receiving show cause notice for levy of penalty u/s.271(1)(c) of the Act. He there enquired from his tax consultant regarding the status of appellate proceedings and thereafter, engaged another counsel to handle the matter. By this time, a delay of 655 days had occurred in filing of the appeal before the Tribunal by the new counsel. Since the delay is due to bonafide reasons Ld. AR has requested for condonation of the same and restoration of appeal for fresh decision by Ld. CIT(A). On the other hand, Ld. DR has submitted that there is no plausible explanation supported by the documentary evidence to justify the inordinate delay in filing of appeal and therefore, request for condonation of delay ought to be rejected.

5. We have heard the rival submissions and perused the material available on record. Considering the totality of the facts and circumstances, we are of the view that it is a case of genuine and bonafide delay due to peculiar fact and circumstances as explained in the affidavit. Accordingly, in the interest of justice, we deem it appropriate to condone the delay of 655 days and remand

the matter to Ld. CIT(A) for fresh adjudication on merits after giving due opportunity to the assessee.

6. In the result, appeal of the assessee is allowed for the statistical purposes.

Order pronounced in the open court on 30.07.2025.

Sd/-
BEENA PILLAI
(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-
RENU JAUHRI
(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 30.07.2025

दिव्या रमेश नांदगावकर/ स्टेनो

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण/
ITAT, Bench, Mumbai.