

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, MUMBAI
BEFORE SHRI SANDEEP GOSAIN, (JUDICIAL MEMBER) AND
SHRI PRABHASH SHANKAR, (ACCOUNTANT MEMBER)**

**I.T.A. No.6418/Mum/2024
Assessment Year: 2013-14**

Pallavi Santosh Bhave 13 Jay Sukh Co-op Soc., Liberty Garden, Near Ashray Hotel Off Mamletdarwadi, Malad West, Mumbai 400064. PAN: ARKPB1357L (Appellant)	Vs	Income Tax Officer, Ward 41(3)(3), Mumbai Kautilya Bhavan C41- 43, G Block BKC, Gilban Area, Bandra Kurla Complex, Bandra East, Mumbai 400051. (Respondent)
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Appellant by	Ms. Radha Halbe
Respondent by	Mr. Virabhadra S. Mahajan, Sr. DR

Date of Hearing	07.07.2025
Date of Pronouncement	04.08.2025

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal filed by the assessee arises out of final assessment order passed by National Faceless Appeal Centre (NFAC), Delhi dated 27/09/2024 on following grounds of appeal:

“1. In the facts and circumstances of the case and in law, the Learned National Faceless Appeal Centre (NFAC)/ CIT (Appeals) has erred in upholding the action of the Ld. Assessing Officer of levying penalty u/s 271(1)(c) of Rs. 7,35,966/-.

2. The appellant craves leave to add, alter, delete or modify all or any of the above grounds of appeal. All the above grounds are without prejudice to each other.”

2. From the records, we noticed that there is a delay of 13 days in filing the present appeal regarding which assessee has moved an application for seeking condonation of Delay coupled with an affidavit.

3. Whereas on the contrary, Ld. DR contested the said application and requested to dismiss the same as there is no sufficient cause for condoning the delay.

4. After having heard the counsel for both the parties on this application and considering the entire factual position as explained before us and also keeping in view the principles laid down by the Hon'ble Supreme Court in the case of Land Acquisition Collector vs MST Kitji & Others, 1987, AIR, 1353 Supreme Court 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 principles of advancing substantial justice are of prime importance. Hence, considering the explanation put forth 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. Consequently, the application filed by the assessee for seeking condonation of the delay stands allowed. The appeal is admitted to be heard on merits.

5. After having gone through the records of the present case and hearing the parties, we found that the present appeal has arisen

out of the confirmation of penalty orders passed by the AO. However, we noticed that the Co-ordinate Bench of ITAT in assesses own case on quantum additions have restored the matter back to the file of Ld. CIT(A) for fresh adjudication by providing opportunity of hearing to the parties vide order dated 12.03.2025 in ITA No. 6351/MUM/2024.

6. Since the quantum additions have already been set aside to the file of Ld. CIT(A) for fresh adjudication, therefore, in the fitness of the things the present file is also restored back to the file of Ld. CIT(A) for deciding it afresh after adjudicating, the quantum appeal on merits. Consequently, Considering the factual position in mind, the appeal of the assessee is restored to the file of Ld. CIT(A) for fresh adjudication by providing opportunity of hearing to the parties.

7. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(A). Appeal shall, in no way be construed, as having any reflection of expression on the merits of the dispute, which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

8. In the result, appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 04/08/2025

Sd/-
(PRABHASH SHANKAR)
(ACCOUNTANT MEMBER)

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Mumbai:

Dated: 04/08/2025

Divya R. Nandgaonkar
Stenographer

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt.Registrar)
ITAT, Mumbai