

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “A”, MUMBAI  
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**1. ITA NO. 1056/MUM/2025(A.Y: 2017-18)**

**2. ITA NO. 1057/MUM/2025(A.Y: 2019-20)**

<b>Akar Auto Industries Limited</b> E-5, MIDC, Bajaj Nagar MIDC Waluj SO, Ranjangaon (s), Aurangabad, Maharashtra -431136	<b>Vs.</b>	<b>ACIT Circle 6(1)(1),</b> 504, Aayakar Bhavan, Mumbai-400 021
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**PAN: AAACA4261G**

**(Appellant)**

**(Respondent)**

<b>Assessee Represented by</b>	<b>:</b>	None
<b>Department Represented by</b>	<b>:</b>	<b>Shri Surendra Mohan, Ld. DR</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>05.08.2025</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>08.08.2025</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. Both the appeals are filed by the appellant/assessee against the order of Learned Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as



“the Act”] dated 12.10.2023 and 01.10.2021 for the A.Y. 2017-18 and 2019-20 respectively, wherein the Ld. CIT(A) dismissed the appeal of the assessee and confirmed the disallowance made by the Ld. AO.

2. Since the facts of both the appeals filed by the assessee are exactly same and parties are same, hence both the appeals are taken up together in order to avoid the multiplicity of the decision. First of all, we are taking ITA No. 1057/Mum/2025 for AY 2019-20 as lead case.

3. The brief facts as culled out from the proceedings before the authorities below are that the assessee/appellant is engaged in manufacturing of Automotive Hand tools and Forged items for Export, OEM and local market. The assessee filed its return of income for A.Y.2019-20 on 31.10.2019 by declaring total income of Rs.5,90,00,700/-. The return of income has been processed by DCIT, CPC, Bangalore and issued intimation under section 143(1) of the Act. During the processing, the income was computed after disallowing the amount of Rs.75,43,140/- the employees' contribution made by the assessee. Accordingly, the Assistant Director of Income Tax (CPC), Bangalore has raised a demand of Rs. 20,98,497/- vide intimation dated 16.05.2020. Aggrieved with the intimation under section 143(1) of Income Tax Act, 1961 the assessee



preferred an appeal before the Ld. CIT(A) who has dismissed the appeal holding that the disallowance of Rs. 75,43,143/- made by AO, CPC for not depositing to employee's contribution to PF & ESI after due dates as specified by the rules of the relevant funds was correctly held as deemed income and confirmed the disallowance stating that the late payments are not covered u/s 43B of the Act.

4. Aggrieved by the order of Ld. CIT (A), the assessee preferred the appeals before us on 17.02.2025 against the order dated 01.10.2021 and the order dated 12.10.2023. The registry has raised an objection that the appeal is time barred by 1113 days and Form No. 36 is not signed by the Managing Director. Similarly in appeal no. 1056/Mum/25 for AY 2017-18, the registry has raised the objection that the appeal is time barred by 383 days and the Form No. 36 was also not signed by the Managing Director. Admittedly, the assessee /appellant has not removed the objections raised by the Registry.

5. No one has appeared on behalf of the assessee on the date of hearing before us. Earlier the Authorized Representative has appeared on 26.03.2025, 23.06.2025 and 31.07.2025, but did not take any steps to remove the defects. On perusal of the Form 36, it is found that the said form 36 and verification is signed only by Mr. Pawan Kumar Gupta, the



Chief Financial Officer of the assessee company and the column of authorized representative is left blank. There is no resolution placed on record in favour of Mr. Pawan Kumar Gupta, CFO for filing the appeal on behalf of the assessee company. Hence the appeal on account of this deficiency is liable to be dismissed in limini without admission of it for hearing.

6. However, we have considered the application seeking condonation of delay wherein in ITA No. 1056/Mum/2025 for AY 2017-18, affidavit of Shri Sunil Todi, Principle Officer is filed who has claimed himself to be authorized representative of the appellant. He has alleged in the affidavit that the delay has occurred because the company accountant who was responsible for handling tax related matter resigned abruptly as a result the filing of the appeal was inadvertently overlooked. A new consultant to review and manage the company's tax matter was appointed who has discovered that the appeal has not been filed before the Hon'ble ITAT.

7. In ITA No. 1057/Mum/2025 for AY 2019-20, the affidavit of same Shri Sunil Todi, Principle Officer who has claimed himself to be authorized representative of the appellant. In his affidavit as stated that the covid pandemic emerged in early 2020 and ended by mid of December 2021



which has disrupted the normal business. He has further alleged in the affidavit that the delay has occurred because the company accountant who was responsible for handling tax related matter resigned abruptly as a result the filing of the appeal was inadvertently overlooked. A new consultant to review and manage the company's tax matter was appointed who has discovered that the appeal has not been filed before the Hon'ble ITAT.

8. We have heard the Ld. DR and examined the reasons given for condonation of delay. No one assisted the Tribunal on behalf of the appellant as they preferred to remain absent during the hearing of the matter. The Ld. DR has strongly objected to the condonation of delay stating that the inordinate delay is neither explained nor there is sufficient cause made out by the appellant for condonation of delay. The Ld. DR further submitted that when Mr. Sunil Todi as per his affidavit is the authorized representative of the assessee, the Form 36 must have been signed either by him or by the Managing Director. Admittedly Form 36 is not signed by either of them, but by Mr. Pawan Kumar Gupta who is not the authorized representative of the appellant as no document has been filed in that regard.



9. It is evident from the contents of affidavit of Mr. Sunil Todi, the authorized representative of the appellant that the name of the accountant who has abruptly resigned has not been mentioned or no detail about him is mentioned in the affidavit. The date and time of his resignation is also not mentioned. Similarly, the name and detail of new consultant is also not mentioned. Further, it is admitted case of the appellant in the affidavit of Mr. Sunil Todi that the covid pandemic ended by mid December 2021 and the appeal has been filed on 17.02.2025 after a delay of 1113 days (AY 2019-20). For the above reason, the explanation given for delay in filing both the appeals is found to be superficial and imaginary, bereft of any truth in the same. The assessee/appellant has failed to show any sufficient cause for condonation of delay in filing the appeals before the Tribunal.

10. For the above reasons, we are of the considered opinion that the appeal is liable to be dismissed in limini without admitting the same for hearing because the Form 36 is not signed by the duly authorized representative of the assessee and the appellant has also failed to show any sufficient cause for condonation of delay in filing the appeals. Accordingly, the appeal filed by the assessee is dismissed in liminias having not found fit for admission.



**2. ITA NO. 1056/MUM/2025(A.Y: 2017-18)**

11. Since we have already decided the similar appeal filed by the assessee in ITA No. 1057/Mum/2025 for AY 2019-20 and the facts of this appeal are exactly similar, therefore the findings in ITA No. 1057/Mum/2024 shall mutatis mutandis apply to this appeal also. Resultantly, the appeal also dismissed in limini as having not found fit for admission.

12. In the result, both the appeals filed by the assessee are dismissed in limini as having not found fit for admission.

**Order pronounced in the open court on 08.08.2025**

Sd/-

(OM PRAKASH KANT)  
(ACCOUNTANT MEMBER)

Mumbai / Dated 08.08.2025  
Dhananjay, Sr.PS

Sd/-

(RAJ KUMAR CHAUHAN)  
(JUDICIAL MEMBER)

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.  
//True Copy//

BY ORDER



**ITA No. 1056& 1057/Mum/2025**  
**Akar Auto Industries Limited**

(Asstt. Registrar)  
**ITAT, Mumbai**