

आयकर अपीलीय अधिकरण न्यायपीठ मुंबई में।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
“J(SMC)” BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
AND  
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2450/MUM/2025  
निर्धारण वर्ष / Assessment Year :2011-12

Sunny Madhukar Bhagat  
A-303, Om Sai CHSL, Bldg. No.2,  
Tagore Nagar, Nr. Eastern Express hwy  
Vikhroli E, Mumbai  
PAN: ANFPB5386E

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-41(20) (5), Mumbai

.....प्रत्यर्थी / Respondent

Assessee by : Ms. Ankita Tarafdar, CA  
Revenue by : Shri Aditya Rai, Sr. DR

सुनवाई की तारीख / Date of Hearing :18.08.2025

घोषणा की तारीख / Date of Pronouncement : 22.08.2025

**आदेश / ORDER****PER ARUN KHODPIA, AM:**

The present appeal filed by the assessee is directed against the order passed by the Ld.CIT(Appeals)/NFAC, Delhi dated 29.11.2023, for the assessment year 2011-12 as per the following grounds of appeal:

**“Ground of the Appeal:****Grounds of Appeal before the Hon'ble ITAT**

1. The appellant is an individual and a salaried person. During the relevant assessment year, the appellant purchased an immovable property for Rs.40,00,000/- through a combination of home loan, financial support from parents, and personal savings accumulated from duly taxed salary income over previous years.

2. The Commissioner of Income Tax (Appeals) ICIT(A)1 erred in confirming an addition of Rs.16,00,000/- to the appellant's income for the Assessment Year (A.Y.) 2011-12 without proper appreciation of the facts. This amount comprises:

- a.) Salary income of Rs.6,62,993/- (duly reported and taxed),
- b.) Savings from past years income. –

A sum received from the appellant's father, who is a retired individual, and other receipts which was derived from the sale of stridhan (personal jewellery) to local jewellers.

3. The CIT(A) failed to properly examine and consider the appellant's detailed written submissions, supporting documents, and statements of accounts while determining the source of Rs.16,00,000/-. The addition has been made arbitrarily, without adequate verification of the documentary evidence provided.

4. The demand of Rs.26,50,420/-, raised towards tax, surcharge, and education cess, is excessive and unjustified. The same may kindly be deleted.”

5. The appellant reserves the right to amend, modify, or add to the above grounds of appeal at any stage of the appellate proceedings.”

2. At the very outset, the Ld. Counsel for the assessee submitted that the appeal is time barred by 404 days. Explaining the reasons leading to the said delay, the Ld. Counsel has filed condonation petition a/w. affidavit. It was submitted by the Ld. Counsel that the assessee is residing outside India i.e. at Abu Dhabi, UAE from the year 2017 due to his job and was unable to liaison with any tax advisor/consultant from India regarding filing of appeal before the Tribunal. It was submitted by the Ld. Counsel that the delay has been occasioned due to circumstances beyond the control of the assessee and there was no deliberate or malafide conduct on the part of the assessee in causing such delay, therefore, the impugned delay may be condoned.

3. The Ld. Sr. DR did not raise any objection as regards the delay involved in appeal and fairly conceded to the submissions of the Ld. Counsel for the assessee as regards the said delay.

4. Having heard the parties herein, we are of the considered view that the delay involved in the present appeal was caused due to some circumstances beyond the control of the assessee and therefore was no deliberate or malafide conduct on the part of the assessee in causing such delay. The Ld. Sr. DR could not place on record any evidence showing malafide or lackadaisical approach on the part of the assessee. In so far the delay is concerned, it would be relevant to point out that the Hon'ble

Supreme Court in the case of **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025**, had observed that a justice oriented and liberal approach ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. Also, the **Hon'ble High Court of Chhattisgarh** in the case of **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025**, after relying on the judgment of the Hon'ble Supreme Court in the case of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur (supra) had held that a justice oriented and liberal approach be adopted while considering the application filed by the assessee for condonation of delay.

5. That in the recent judgment of the **Hon'ble Supreme Court** in the case of **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21<sup>st</sup> March, 2025**, the Hon'ble Apex Court while interpreting Section 5 of the Limitation Act, 1963 regarding the condonation of delay in respect of case of land acquisition has observed and held on the aspect of delay that although the delay cannot be condoned without sufficient cause, the merits of the case could not be discarded solely on the ground of delay. A liberal approach, therefore, should be taken in condoning the delay when

limitation ground undermines the merits of the case and obstructs the substantial justice. In other words, the objective of the court should be to deliver substantial justice coupled with liberal and judicious approach while deciding the issue of limitation and whenever it is found that the case has merits which needs to be addressed substantially, in such case, the delay should be condoned. Accordingly, the said delay of 404 days involved in the present appeal is condoned.

6. The brief facts in this case are that the assessee is a non-filer during the year under consideration. On a perusal of the Individual transaction statement (ITS) in the case of the assessee for the year under consideration, the following information was gathered:

Sr. No.	F.Y.	Information Code	Information Description	Amount (in Rs.)
1.	2010-11	AIR-006	Purchased Immovable property valued at Rs.30,00,000/- or more	40,00,000/-
2.	2010-11	TDS 92B	TDS Return-Salary to employee (Section 192)	6,62,993/-
Total				<b>Rs.46,62,993/-</b>

It was observed by the A.O that though the assessee has entered into the aforesaid transactions, however, had not offered any income during the year under consideration. Since the assessee had failed to disclose fully

and truly all material facts relevant to the assessment, therefore, the case of assessee was reopened by issuing a notice u/s. 148 of the Income Tax Act, 1961 ( for short 'the Act') on 29.03.2018.

7. In response to the said notice, the assessee filed return of income declaring an income of Rs.6,76,853/-. It was also observed by the A.O that the assessee had invested in purchase of immovable property for a consideration of Rs.40,00,000/- during the year under consideration and the same was not shown in the return of income filed in response to notice u/s. 148 of the Act. Accordingly, as the assessee had failed to explain the source of the said investment, the A.O treated the said amount of Rs.40,00,000/- as unexplained investment and made addition of the same u/s. 69 of the ACT.

8. Aggrieved with the aforesaid order, the assessee preferred an appeal before the Ld. CIT(Appeals)/NFAC who after considering the submissions of the assessee restricted the addition to Rs.16,00,000/- out of total addition of Rs.40,00,000/- by observing as follows:

**“5.0 Appellate findings:-**

**I have carefully examined and considered the facts of the case, findings of the A.O. contained in the assessment order, reply/submission filed by the appellant in support of the contention put forward during appellate proceedings.**

**5.1 Ground no. 1:-** Vide this ground of appeal, appellant has challenged the findings of the AO in his assessment order. It

has been stated that AO has wrongly made addition on account of salary income of Rs.6,62,993/- on which TDS is already deducted. Further, appellant has stated that AO has wrongly and arbitrarily made addition of Rs.40 lacs u/s. 69 of the IT Act, 1961 on account of unexplained investment in the immovable property purchased by the appellant on 01.10.2018. Despite the fact that property had been purchased out of savings and borrowings made from friends and relatives along with additional loan from LIC amounting to Rs.24 lacs. The appellant has challenged the how borrowings can be treated as income of the appellant.

**5.2** I have carefully considered the facts of the case, findings of the AO contained in the assessment order, issues raised by appellant vide this ground of appeal and reply,' submission filed by the appellant during appellate proceedings. From the perusal of the assessment order it is seen that AO had credible information that income of Rs.6,62,993/ appellant had purchased immovable property at Rs.40 lacs and from TDS return it was gathered that appellant has salary the year under consideration. The appellant has not filed return of income during despite having above mentioned transactions during the year. In the light of above facts, the A.O after due diligence reopened the case by issuing notice u/s 148 of the IT Act, 1961. The AO has noted that in response to notice oils 148, the appellant has filed manual return of income vide email dated 16.04.2018 wherein appellant had declared income of Rs.6,76,853/-. From the perusal of the assessment order, it is noticed that despite issuing several notice by the AO, the appellant could not respond with reply during the 147 reassessment proceedings. Accordingly, the AO resorted to best Judgment assessment proceedings u/s 144 of IT Act. 1961 and based on the information and available record, the assessment order was passed. It is seen that AO has treated the purchase of immovable property amounting to Rs.40 lacs during the year as unexplained investment u/s 69 of the IT Act and accordingly made addition of Rs. 40 lacs in the total income of the appellant. Further, it is also noted that AO has accepted the revised return wherein appellant had declared an amount of Rs.6,76,853/- as total income for the year in response to notice u/s 148 of the IT Act, 1961.

**5.3** The appellant has opposed the findings of the AO and has submitted that there is genuine and bonafide explanation with regard to source of purchase of immovable property during the year From the reply furnished during appellate proceedings, it is seen that appellant has explained that property was purchased from accumulated saving made and

by arranging loan from LIC. friends and relatives. The appellant has explained that it has taken housing loan LIC HFL. Further, the appellant has furnished the sanction letter from the LIC HFL from which it is apparent that appellant got the sanction of loan amounting to Rs.24 lacs on 23.03.2011. From the above documents, it is also seen that the appellant had to pay EMI on the above mentioned loan. Further, appellant has also submitted various cheque details for the disbursement of abovementioned loan to the appellant. Further, it has been argued that the balance amount has been arranged from the friends and relatives and out of accumulated savings from the past. However, there is no valid documentary evidence such as bank statement, confirmations from the friends and relatives with regard to balance amount as claimed by the appellant. Considering the totality of the facts in the light of explanation of the appellant supported by documentary evidence. I am inclined to accept the explanation with regard to Rs.24 lacs investment is on account of genuine and valid loan received from LIC HFL during the year. For the balance Rs.16 lacs appellant has failed to explain the genuine source with any such documentary evidence. Accordingly, the A.O is directed to restrict the addition made u/s.69 of the IT Act, 1961 to Rs.16,00,000/- only. Therefore, this ground of appeal is partly allowed.

6.0. In the result, the appeal of the appellant is partly allowed.”

9. As regards the addition of Rs.16,00,000/- restricted by the Ld. CIT(Appeals)/NFAC, the Ld. Counsel for the assessee filed a written submissions explaining the details about the source of remaining Rs. 16.00 Lac which was not allowed by the Ld CIT(A), extracted as follows:

Payments made to the builder (Amounts in Rs.)	Reference in the Paper Book (Supporting Evidences)	Source of Funds
Rs. 5,00,000/-	Receipt No. 1 (Page No. 153) & HDFC Bank St. (Page No. 75). *Debit Entry on 16/08/2010, Cheque no. 575041	Rs. 4,11,000/- (Refund) credited on 11-08-2010 (Page No. 75) through cheque no. 282540 from a flat which was previously booked with a builder named Kings Empire Heights Pvt Ltd. Confirmation from Kings Empire Heights Pvt Ltd. Is given in their Letterhead (Page No. 152). & Rs. 2,06,023/- Personal Loan (PL) from CITI Bank credited on 14-08-2010 on (Page no. 75).
Rs. 2,00,000/-	Receipt No. 2 (Page No. 154) & HDFC Bank St. (Page No. 76). *Debit Entry on 20/08/2010, Cheque no. 575042	Rs. 1,47,000/- Bank Transfer from father's SBI Bank Account, Cheque No. 800116 *On 18-08-2010, Rs. 1,47,000/- credited in HDFC Bank St. (Page no. 75), On 20-08-2010, Rs. 1,47,000/- debited from father's SBI Bank account – (Page no. 117), b.) Rs. 53,000/- balance amount from the existing bank balance which consists of earlier Savings, Salary Income and Personal Loan.

Rs. 5,00,000/-	Receipt No. 3 (Page No. 155) & HDFC Bank St. (Page No. 76). *Debit Entry on 03/09/2010, Cheque no. 575043	On 30-08-2010, Rs. 6,00,000/- credited through Cash Deposit (Page no. 76), Cash received from father Rs. 4,00,000/-, <b>Father's source:</b> Received VRS Funds from Century Mills (Page no. 126) Total VRS Amt. Rs. 8,08,792/-. Cash received from Mother Rs. 2,21,100/-, <b>Mother's source:</b> Cash Receipts from Sale of Old Gold Jewellery. Gold Bills on (Page no. 148 to 151).
Rs. 64,633/-	Receipt No. 4 (Page No. 156) & HDFC Bank St. (Page No. 85). *Debit Entry on 15/06/2012, Cheque no. 444087	ITR Copy & its Acknowledgement for A.Y. 2013-14, (Page no. 35 to 44) <b>Also, ECS Credit from Siemens on every last day of the month (Salary Income)</b> (Page no. 84 & 85) (Rs. 48,194/- + Rs. 47,394/-).
Rs. 2,00,000/-	Receipt No. 5 (Page No. 157) & HDFC Bank St. (Page No. 98). *Debit Entry on 28/01/2014, Cheque no. 000003	ITR Copy & its Acknowledgement for A.Y. 2014-15, (Page no. 45 to 59) <b>Salary Income ECS</b> (Page no. 90 to 98) (Rs. 47,640/- + Rs. 47,640/- + Rs. 47,834/- + Rs. 47,846/- + Rs. 47,846/- + Rs. 47,847/- + Rs. 48,346/- + Rs. 47,347/- + Rs. 76,662/-)
Rs. 1,50,000/-	Receipt No. 6 (Page No. 158) & HDFC Bank St. (Page No. 100). *Debit Entry on 08/04/2014, Cheque no. 000005	ITR Copy & its Acknowledgement for A.Y. 2015-16, (Page no. 60 to 74) <b>Salary Income ECS</b> (Page no. 99 to 100) (Rs. 1,61,139/- + Rs. 1,98,053/- + Rs. 1,63,275/-)

**Note:** The above explanation given is for Rs. 16,14,633/-, Since amount over and above Rs. 16,00,000/- i.e., Rs. 14,633 is payment made to the builder as reimbursement of miscellaneous expenses which the builder incurred on behalf of the assessee.

10. Per contra, the Ld. Sr. DR relied on the order of the Ld. CIT(Appeals)/NFAC.

11. We have heard the rival submissions of the parties herein and perused the material available on record. On a perusal of the bifurcated details filed by the assessee, it transpires that payments made by assessee from his bank account are verifiable and are from explained sources, i.e., **(i)** Rs.5,00,000/- (16.08.2010) which was sourced out from (a) Rs.4,11,000/- (refund) credited from builder namely Kings Empire Heights Pvt. Ltd. through Cheque No.282540; (b) Rs.2,06,023/- (personal loan from CITI Bank.), Page 75& 152 of the paper book **(ii)** Rs.2,00,000/- (20.08.2010) which was sourced out from (a) Rs.1,47,000/- transfer from assessee's father SBI Bank account Cheque No.800116; (b) Rs.53,000/- balance amount from the existing bank balance of his past savings, salary income and personal loan; Page No.75/76& 117 of the paper book **(iii)** Rs. 5,00,000/- (03.09.2010) which was sourced out from (a) Rs.4,00,000/- i.e. cash deposits received from his father; (b) Rs.2,21,100/- received from his mother;Pages 76, 126, 148 to 151 of the paper book **(iv)** Rs.64,633/- (15.06.2012) which was sourced out of ECS credit from Siemens on very last day of the month as salary income, Pages 35 to 44 & 84 & 85 of the paper book **(v)** Rs.2,00,000/-(28.01.2014)which was sourced out of Salary income from ECS;Pages 45 to 59 and 90 to 98 of the paper book and **(vi)**

Rs.1,50,000/- (08.04.2014) which was sourced out of Salary income from ECS, Pages 60 to 74 and 99 to 100 of the paper book.

12. Considering the facts and circumstances of the case, on perusal of the evidence for source of Rs. 16.00 Lac paid by the assessee through his bank account, the only transaction of Rs. 6.00 lac cash deposited in assessee's bank account on 30.08.2010, found to be doubtful as the same has been corroborated from father's receipts of VRS in January 2007 to the extent of Rs. 4.00 Lac, for which no recent cash withdrawal for such amount were made, however, on presumption it can be considered that his father would have provided such funds from his sources, in absence of any negative inference or evidence by revenue. We, therefore, are of the considered view that the assessee had duly explained the source of the amount of impugned addition of Rs.16,00,000/-, thus no reason left to treat the same as unexplained Investment within the meaning of Section 69 of the Act. Accordingly, we reverse the decision of the Ld.CIT(Appeals)/NFAC to that extent and direct to delete the addition of Rs.16,00,000/- in the hands of the assessee.

13. As regards the ground for demand of Rs.26,50,420/- raised towards tax, surcharged and education cess, the same being consequential in nature, hence requires no adjudication.

14. In the result, appeal of the assessee is allowed as per our aforesaid observations.

Order pronounced in the open court on 22<sup>nd</sup> August, 2025.

Sd/-  
**AMIT SHUKLA**  
**(JUDICIAL MEMBER)**

Sd/-  
**ARUN KHODPIA**  
**(ACCOUNTANT MEMBER)**

मुंबई/Mumbai; दिनांक / Dated : 22<sup>nd</sup> August, 2025.  
SB, Sr.PS (on Tour)

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. आयकर आयुक्त/The CIT, Mumbai
4. प्रधान आयकर आयुक्त/ Pr.CIT, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई बेंच, मुंबई/DR, ITAT, Mumbai Benches, Mumbai.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

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आयकर अपीलीय अधिकरण, मुंबई/ ITAT, Mumbai.