

**IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH "SMC", NAGPUR**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.322/NAG/2025
Assessment Year: 2013-14**

Ms. Sandhya Vitthalrao Dabre, C/o Madhukar Kanitkar Vijay Sahniwas, West Central Garden Road, Dhantoli, Nagpur Maharashtra - 440 012 PAN: AMDPD33688A	Vs.	Income Tax Officer Ward 1(2), Civil Lines, Nagpur Maharashtra - 440001
(Appellant)		(Respondent)

Present for:

Assessee by : Ms. Mugdha Gangane, Ld. Adv.
{Amicus Curaie}
Revenue by : Shri Surjit Kumar Saha, Ld. CIT D.R.
Date of Hearing : 26.06.2025
Date of Pronouncement : 29.08.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 03.01.2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2013-14.

2. At the outset, it is observed that there is a delay of 412 days in filing the instant appeal, on which the Assessee has claimed that she being aged about 65 years old woman was suffering from manic decease psychosis a "chronic mental disorder" and was under medical supervision and treatment from 23.12.2023 to 09.04.2025

and therefore she was unable to co-ordinate with legal counsel or to initiate the appeal process. Somehow, now the Assessee has approached Ld. CA Mr. Akash Gulhane for filing of appeal, who had filed the same but with a delay of 412 days. The Assessee has also filed duly sworn affidavit along with medical documents in respect of her claim qua condonation of delay. The Assessee in respect of her claim has also filed copy of the police complaint and the diploma certificate qua professional beautician diploma (4 months course) from Adroit Institute and bank statements of State Bank of India etc. On the contrary, the Ld. D.R. though refuted the claim of the Assessee, however, not the medical documents. This Court by giving thoughtful consideration to the reasons for delay and considering the aforesaid peculiar facts and circumstances qua condonation of delay and the documents, is inclined to condone the delay. Thus, the delay is condoned.

4. Coming to the merits of the case it is observed that the case of the Assessee was reopened u/s 147 of the Act mainly on the reasons that as per information shared by Pr. Commissioner of Income Tax-1, Nagpur to the effect that the Assessee during the assessment year under consideration has made investment in M/s. Vasankar Wealth Management Pvt. Ltd. to the tune of Rs.18,00,000/- in cash, however, has not filed her return of income for the AY under consideration and therefore in view of the above, he has a reason to believe that investment of Rs.18,00,000/- and accrued interest has escaped assessment.

Though the Assessing Officer (AO) issued various notices, however, the Assessee responded to only one dated 08.03.2022 and submitted her reply but without any documents. Therefore, the AO by considering the peculiar facts and circumstances of the case

and submissions of the Assessee ultimately made the addition of Rs.18,00,000/- being unexplained investment u/s 69A of the Act.

5. The Assessee, being aggrieved, challenged the aforesaid addition as well as reopening of the proceedings u/s 147 of the Act by filing first appeal before the Ld. Commissioner, however, of no avail, as the Ld. Commissioner not only affirmed the reopening of the proceedings but also the merits of the case and thus the Assessee being aggrieved has challenged the impugned order.

6. Though notice for the date of hearing on today i.e. 26.06.2025 was sent to the Assessee, however, the Assessee neither appeared nor filed any adjournment application, therefore this Court is constrained to appoint Ld. Amicus Curie for proper and just decision of the case.

7. Heard the Ld. D.R. and Ld. Amicus Curie and perused the material available on record. The Ld. DR supported the orders passed by the Authorities below, whereas the Ld. Amicus Curie, at the outset, has demonstrated that before both the authorities below it was specifically claimed by the Assessee that the Assessee on dated 05.10.2015 {relevant to the AY under consideration} had deposited only Rs.10,00,000/- and the amount of Rs. Rs.2,00,000/- on 29.07.2011 (relevant to the AY 2012-13) in M/s. Vasankar Wealth Management Pvt. Ltd. that too from old savings and gift from her husband. The investments were made under pressure from a broker in a ponzi scheme who conditioned the receipt in cash for investment for which the Assessee had withdrawn the amount from her bank account. The source of above stated deposits were charges received from beauty parlor business conducted by her at her residence after completing professional beautician course in the year 1995. The course certificate is attached for perusal and the balance deposits were the gifts from her husband from time to time

as it clearly reflects in her bank statement. Unfortunately, no income or return was received from the above investment, as the scheme was ponzi. The Assessee in the police complaint filed against M/s. Vasankar Wealth Management Pvt. Ltd. has mentioned the investment amount along with dates of investments. However, the AO without considering the said response and documentary evidence passed the assessment making the addition of Rs.18,00,000/- as her undisclosed income u/s 69A of the Act and the Ld. Commissioner sustained the addition to the extent of Rs.16,00,000/- by giving relief of Rs.2,00,000/- being past savings.

8. This Court has given thoughtful considerations to the peculiar facts and circumstances of the case. Admittedly, the Assessee during the assessment year under consideration on dated 05.10.2012 had deposited Rs.10,00,000/- only and by filing bank statement and making the submissions has tried to establish that she had deposited such amount of Rs.10,00,000/- out of gift money and the cash withdrawn from her bank account and the amounts received from her husband etc.

9. Though the Ld. Commissioner has given a partial relief of Rs.2,00,000/-, however, it is a fact that both the authorities below have not considered the real picture and/or real amount invested by the Assessee in the aforesaid company. There is a clear mismatch in the amount invested and as considered in the reasons recorded and ultimately making the addition by the AO and affirming the same by the Ld. Commissioner. As the Assessee has been able to establish a plausible reason for investing the amount of Rs.10,00,000/- out of her beauty parlor earnings, past savings and gifts and amounts received from her husband and by filing detailed chart of bank withdrawals prior to investment, police complaint affirming the investment made and establishing the reason for non-

filing of return due to income below the taxable threshold, has discharged her prima-facie onus cast upon her u/s 69A of the Act and therefore the addition made and affirmed u/s 69A of the Act is unsustainable and thus the reopening proceedings along with assessment order passed in pursuance thereto, are liable to be quashed and hence the same are quashed.

9. As the assessment order itself is quashed, hence this Court is inclined not to delve into the other aspects of the case, as the adjudication of the same would prove futile exercise.

10. This Court appreciates and endorses the able assistance provided by the Ld. Amicus Curie.

11. In the result, the Assessee's appeal is allowed.

Order is pronounced on dated 29th August, 2025, as per section 34{5} of the Income-Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Nagpur
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Nagpur.