

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“G” BENCH, MUMBAI**

**BEFORE JUSTICE (RETD.) C V BHADANG, PRESIDENT &  
MS PADMAVATHY S, AM**

**I.T.A. No. 5702/Mum/2024**  
(Assessment Year: 2015-16)

**I.T.A. No. 5703/Mum/2024**  
(Assessment Year: 2015-16)

<b>Gangady Venkatram Reddy,</b> C/o Katrapati & Associates, 1-1- 298/2/B/3, Sowbhagya Avenue Apts, 1 <sup>st</sup> Floor, Ashok Nagar, Street No.1, Hyderabad, Telangana-500020. <b>PAN: ADBPR4525K</b>	Vs.	<b>ITO, Ward-42(1)(2),</b> Kautilya Bhavan, Bandra Kurla Complex, Mumbai-400051.
<b>Appellant)</b>	:	<b>Respondent)</b>

**Assessee / Appellant by** : Shri Sashank Dundu  
(Virtually present),

**Revenue / Respondent by** : Shri Swapnil Choudhary, Sr. DR

**Date of Hearing** : 04.09.2025

**Date of Pronouncement** : 16.09.2025

**ORDER**

**Per Padmavathy S, AM:**

These to appeal by the assessee are against the separate orders of the Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) both dated 31.07.2024 for Assessment Year (AY) 2015-16 arising out of the order of the Assessing Officer (AO) under section 147 r.w.s.144

of the Act and order of penalty under section 271(1)(c) of the Act. The assessee raised the following the grounds of appeal in these appeals –

**Grounds in ITA No. 5702/M/2024**

*“1. The order of the Ld. First Appellate Authority confirming the order U/s 147 r.w.s. 144 of the I. T. Act is arbitrary and contrary to the provisions of law and facts of the case.*

*2. The Id. First Appellate Authority is not justified in confirming the addition of Rs. 74,00,000/- as unexplained investment u/s 69 of the IT Act.*

*3. The Ld. First Appellate Authority is not justified in confirming the loan taken from HDFC Bank as unexplained investment u/s 69.*

*4. The Ld. First Appellate Authority is not justified in confirming the proceedings u/s 148 of the IT Act initiated on wrong facts.”*

**Grounds in ITA No. 5703/M/2024**

*1. The order of the Ld. First Appellate Authority confirming the order U/s 271(1)(C) of the I. T. Act is arbitrary and contrary to the provisions of law and facts of the case.*

*2. The Ld. First Appellate Authority is not justified in confirming the levy of penalty u/s. 271(1)(C) where there is no concealment of income.*

*3. The Ld. First Appellate Authority is not justified in confirming the levy of penalty u/s. 271(1)(C) amounting to Rs.22,99,557/- levied on improper appreciation of the facts in the assessment order.*

2. The assessee is an individual and filed the return of income for AY 2015-16 on 13.07.2015 declaring a total income of Rs. 20,39,650/-. The AO reopened the assessment under section 148 for the reason that the assessee has purchased immovable properties during the year under consideration and pledged the property with HDFC Bank to take a loan of Rs. 74,00,000/-. The AO issued notice under section 142(1) of the Act calling the assessee to explain the source of investments made towards purchase of immovable property. Since the assessee did not respond to the notices, the AO completed the assessment under section 147

r.w.s. 144 of the Act where he has made an addition of Rs. 74,00,000/- as unexplained investment. Aggrieved the assessee filed further appeal before the CIT(A). The CIT(A) passed an ex-parte order confirming the addition made by the AO for the reason that the assessee did not respond to various notices issued by the CIT(A). The assessee is in appeal before the Tribunal against the order of the CIT(A).

3. There is delay of 18 days in filing the appeal before the Tribunal and the assessee filed an affidavit along with the petition for condonation of delay. Having heard both the parties and perused the material on record, we are of the view that there is a reasonable and sufficient cause for the delay in filing the appeal before the Tribunal. Therefore following the Hon'ble Supreme Court decision in the case of Collector, Land Acquisition Vs. MST.Katiji & Ors., (167 ITR 471) (SC) we condone the delay of 18 days in filing the appeal and admit the appeal for adjudication.

4. The Id. AR submitted that the assessee has filed a response to one of the notices issued by the AO with the relevant documents (page 6 of PB). The Id. AR further submitted that the AO did not consider the submissions made by the assessee and has completed the assessment under section 144. The Id AR also submitted that the assessee being a senior citizen was not aware of the notices sent by the CIT(A) through mail and hence did not appear before the CIT(A). On merits, the Id. AR submitted that the properties which the AO has mentioned as purchased during the year under consideration was actually acquired by the assessee way back in 2004-05 and that the assessee has only pledged the said property with HDFC Bank to take a loan of Rs.37,00,000 during the year under consideration. The Id AR argued that the AO has added incorrect loan amount

taken from HDFC bank as unexplained investment which is not tenable. Accordingly, the Id. AR submitted that even on merits the addition made by the AO can not be sustained. The Id. AR submitted that since the lower authorities have not examined the impugned issue on merits prayed that the appeal could be remitted back to the AO for verification afresh.

5. The Id. DR on the other hand vehemently argued that the assessee has been consistently not co-operating with the proceedings which is substantiated by the fact that both the AO's order and the CIT(A) order are ex-parte. The Id. DR further submitted that the reasons submitted by the assessee for non-appearance is not well-substantiated. Accordingly, the Id. DR prayed that the order of the CIT(A) be confirmed.

6. We heard the parties and perused the material on record. We notice that the AO has reopened the assessment for the reason that the assessee has purchased certain properties during the year under consideration which were pledged with HDFC Bank for an amount of Rs.74,00,000. We further notice that the assessee did not appear before the AO and therefore the AO passed an ex-parte order treating the entire amount as unexplained investment stating that the assessee has not furnished any details. Before the CIT(A), there was a delay which the CIT(A) has condoned considering the affidavit filed by the assessee. However since the assessee did not file any further details pertaining to the impugned additions made by the AO, the CIT(A) confirmed the same. The contention of the assessee is that the details pertaining to the additions made were submitted before the AO which have not been considered. In this regard we notice that the assessee has submitted various details along with documentary evidences through online portal vide Acknowledgement No. 433303061180822 on 18.08.2022 (page 6 to 25 of paper

book). We further notice that order of the AO dated 22.05.2023 is passed after the date of submission where the AO has not considered the documentary evidences such as Loan Sanction letter, Advocate's report along with list of properties, etc., submitted by the assessee. Therefore there is merit in the contention that the AO has passed the order without considering the details and evidences submitted by the assessee. Before us the assessee submitted an affidavit stating that he underwent lot of personal problems such as mother's death, litigation with daughters etc., due to which he could not appear properly before the lower authorities. It is relevant to notice here that the assessee is a 70 year old senior citizen. Further the claim of the assessee that the assessment is reopened for incorrect reason that the assessee has purchased properties during the year under consideration, needs to be factually examined based on documentary evidences submitted by the assessee. Considering the facts and circumstances as elaborated herein above, in the interest of natural justice and fair play, we deem it fit to remit the appeal back to the AO with a direction to examine the impugned issue on merits based on details furnished and by calling for further details which may be required to decide the impugned issue in accordance with law. Assessee is directed to furnish the relevant details in support of his contentions and co-operate with the assessment proceeding without seeking unnecessary adjournments. It is ordered accordingly.

7. The assessee through ground no.1 has raised the legal contention pertaining to the order of assessment under section 147 r.w.s. 144 stating that the assessment should have been done by the faceless AO instead of the jurisdictional AO. During the course of hearing, the ld. AR submitted that if the appeal is considered on merits and set-aside to the AO the legal ground can be left open. In view of our decision on merits we leave open the legal contentions raised by the assessee.

8. Since we have remitted appeal against the order under section 147 r.w.s. 144 back to the AO for fresh consideration, the appeal against the penalty order which is arising out of the reassessment order no longer survives and dismissed accordingly.

9. In result, the appeal of the assessee in ITA No. 5702/Mum/2024 is allowed for statistical purposes and the appeal in ITA No. 5703/Mum/2024 is dismissed.

*Order pronounced in the open court on 16-09-2025.*

*Sd/-*  
**(JUSTICE (RETD.) C.V. BHADANG)**  
**President**

*Sd/-*  
**(PADMAVATHY S)**  
**Accountant Member**

*\*SK, Sr. PS*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

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