

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

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER**

**ITA No.366/NAG/2025  
Assessment Year: 2013-14**

<b>Ms. Rupa Abhay Vyas</b> C/o. Mahalaxmi Travels, New Itwari Road, Near Telegraph Office, Nagpur Maharashtra-440002. <b>PAN: AGAPV8795R</b>	Vs.	<b>ITO Ward 5(3),</b> BSNL RTTC Building, Balaji Mandir Road, Seminary Hills, Nagpur Maharashtra-440006.
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Shubham Jain, Ld. Adv.  
Revenue by : Shri Surjit Kumar Saha, Ld. Sr. D.R.

Date of Hearing : 27.06.2025  
Date of Pronouncement : 18.09.2025

**O R D E R**

**Per : Narender Kumar Choudhry, Judicial Member:**

This appeal has been preferred by the Assessee against the order dated 28.03.2023, impugned herein, passed by the National Faceless Appeal Center (NFAC) (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 729 days in filing of the instant appeal, on which the Assessee by filing a duly sworn affidavit claimed that first notice, for the date of hearing in the appellate proceedings before the Ld. Commissioner, was issued to the Assessee on 13.01.2021 i.e. during the Covid-19 pandemic period. As the Ld. Counsel Shri Ramesh Pandharinath Chandekar who was dealing with the case of the Assessee was severely ill and

owing to his illness, he passed away on 20.03.2021, which resulted into passing the impugned order ex-parte on dated 28.03.2023. Later on the Assessee was diagnosed with a decease called varicose veins in 2023 and since then he is suffering from this decease which caused severe discomfort in walking and therefore undergoing treatment and medication continuously and hence was unable to look after his case or income tax compliances properly. However, on receiving the calls from the Revenue Department for payment of the outstanding demand the Assessee came to know about the impugned order and thereafter tried to reach out to his earlier counsel Shri Ramesh Pandharinath Chandekar, however, got to know about the death of the previous Counsel and therefore immediately filed the appeal on dated 26.05.2025 challenging the impugned order under consideration and therefore the delay may be condoned as the delay was neither intentional nor malafide but based on the bonafide reasons stated above. On the contrary the Ld. DR refuted the claim of the Assessee.

Considering the reasons stated by the Assessee which are supported with duly sworn affidavit, as bonafide, genuine and unintentional, the delay involved is condoned.

**3.** Coming to the merits of the case, the Assessing Officer (AO) vide assessment order dated 29.10.2015 u/s 143(3) r.w.s. 147 of the Act, has made the addition of Rs.17,02,441/- being 1/3<sup>rd</sup> share of the Assessee on a long term capital of Rs.51,07,324/- as determined by the AO.

**4.** Though the Assessee, being aggrieved, challenged the said addition by filing first appeal before the Ld. Commissioner, however, despite of affording various opportunities, eventually made no compliance and therefore the Ld. Commissioner in the constrained

circumstances dismissed the appeal of the Assessee and affirmed the aforesaid addition.

**5.** This Court by giving thoughtful considerations to the peculiar facts and circumstances of the case, observed from the impugned order that the maxim notices for the hearings were issued during the Covid-19 period except one notice dated 13.03.2023, which remained to be complied because of the medical reasons stated above and death of the previous tax Consultant of the Assessee. Therefore, for just and proper decision of the case and substantial justice, this Court is inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee.

**6.** Thus the case is remanded to the file of the Ld. Commissioner for decision afresh accordingly.

**7.** The Assessee is also directed to comply with the notices to be issued by the Ld. Commissioner and file the relevant submissions/documents in order to substantiate her claim. This Court clarifies that in case of subsequent default, the Assessee shall not be entitled for any leniency.

**8.** In the result, the Assessee's appeal is allowed for statistical purposes.

**Order pronounced in the open court on 18.09.2025.**

**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.