

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.4901/M/2025
Assessment Year: 2010-11**

Mr. Jasbindar Singh Dhanjal, Snuvy CHS Row House 16, Plot 29, Sector 2, Kopar Khairane, Navi Mumbai Maharashtra - 400 709 PAN: AHQPD8453R	Vs.	Assistant Commissioner of Income Tax - 28(1), Vashi Railway Station Building, Vashi, Navi Mumbai Maharashtra - 400 709
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Ashish Thakurdesai, Ld. A.R.
Revenue by : Shri Mahesh Parwani, Ld. Sr. D.R.
(Virtually)

Date of Hearing : 17.09.2025
Date of Pronouncement : 17.09.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 21.12.2023, 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. 2010-11.

2. At the outset, it is observed that there is a delay of 522 days in filing of the instant appeal, on which the Assessee by filing condonation of delay application along with duly sworn affidavit dated 22.07.2025 has stated that during the A.Y. 2017-18 he has lost his permanent job and suffered from depression and therefore his parents took him to Punjab for treatment and therefore he could

not receive any notices from the Department, which resulted into passing the assessment order as ex-parte and making various additions.

Against the assessment order, the Assessee preferred first appeal before the Ld. Commissioner with the help of one CA firm M/s. Aurora & Associates. Notices received from the Ld. Commissioner forwarded to the Ld. CA of M/s. Aurora & Associates, however, who even after constant follow up did not make any submission and just casually informed the Assessee that "since you have all the data you can upload the same and the Income Tax Department would consider and grant relief." The Assessee therefore in response to the notice u/s 250 of the Act made submissions and furnished supporting documents such as bank statement, ledger report from M/s. Reliance Securities Ltd., capital gain/loss report from M/s. Reliance Securities Ltd., trade history from M/s. Reliance Securities Ltd. and transactions statement from M/s. Reliance Securities Ltd. The Assessee further claimed that after furnishing the said documents he was under bonafide belief that matter has satisfactorily been resolved, however, the Ld. Commissioner passed the impugned order upholding the addition made by the AO. The order was received on Assessee's email but inadvertently missed out reading the same in the plethora of emails. However, subsequently, on receiving the order u/s 271(1)(c) of the Act dated 04.03.2025 levying penalty of Rs.12,68,237/-, the Assessee came to know about passing of the impugned order and therefore the Assessee immediately approached new CA Mr. Zubin Batliwala, who advised for filing of the appeal before the Tribunal, however, referred the Assessee to Mr. Ashish Thakurdesai, Ld. CA of M/s. Tikekar and Associates LLP and therefore the Assessee approached such firm in the month of June 2025 and consequently the instant appeal was filed. The delay

occurred was neither intentional nor malafide but the same was genuine and reasonable and sufficient cause.

3. On the contrary, the Ld. D.R. vehemently refuted the claim of the Assessee by submitting that conduct of the Assessee from the impugned order as well as assessment order is clear that the Assessee is a non-compliant and/or having non-compliant attitude, as before the AO as well as the CIT(A) the Assessee has not complied with the notices in its spirit and therefore no leniency can be granted.

4. Having considered the reasons stated by the Assessee qua condonation of delay, it is observed that reasons apparently appears to be genuine and bonafide, however, the same are objectionable, as the Assessee has levelled bald allegation against the erstwhile counsel/CA without submitting any document and therefore the reasons stated by the Assessee qua allegation against the erstwhile counsel/CA cannot be encouraged to and/or not appreciable. However, it appears from the impugned order that the Assessee, though, filed the relevant documents before the Ld. Commissioner, and it is not the case of complete non-compliance, as appears from para-no.3 of the impugned order which read as under:

“ That in response to the above notices, no proper compliance has been received by the Assessee and neither Assessee nor his authorized representative attended during the course of assessment proceedings.”

And it is also a fact that in the absence of relevant submissions/documents and non-prosecution, the issues involved also remained to be adjudicated in its right perspective and proper manner. Therefore, considering the peculiar facts and circumstances in totality, for just and proper decision of the case and substantial justice, this Court is inclined to condone the delay, however, subject

to deposit of Rs.5,500/- in the Revenue Department under "other heads" within 15 days from today.

5. Coming to the merits of the case, as observed above, the impugned order is more or less ex-parte and in the assessment proceedings as well, the Assessee failed to comply with the notices and/or no proper compliance has been made and therefore for substantial justice and just and proper decision of the issues involved, this Court is inclined to remand the instant case to the file of the AO as detailed examinations of the documents and/or claim of the Assessee is required. The Assessee is also directed to file the relevant documents and/or submissions before the JAO as would be required and/or relevant for adjudication of the issues involved. It is clarified that **in case of subsequent default, the Assessee shall not be entitled for any leniency.** Thus, the case is remanded to the file of the AO for decision afresh accordingly in above terms.

7. Thus, the case is accordingly remanded to the file of Ld. JAO for decision afresh in the aforesaid terms.

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

Order pronounced in the open court on 17.09.2025.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.
Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench
//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.