IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

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

I.T.A. No. 4039/Mum/2025
(Assessment Year: 2014-15)

Sunil Ramchandran Nair, Flat No. 12, Cartoon CHS, Bandra West, Mumbai-400050. **PAN: ADGPN4326H**	Vs.	**ACIT, Circle-23(3),** Kautilya Bhavan, BKC, Mumbai-400051.
Appellant)	:	**Respondent**)

Appellant /Assessee by	:	Shri Viraj Mehta, AR
Revenue / Respondent by	:	Shri Swapnil Choudhary, Sr. DR
Date of Hearing	:	20.08.2025
Date of Pronouncement	:	28.08.2025

ORDER

Per Padmavathy S, AM:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 28.12.2023 for Assessment Year (AY) 2014-15. The assessee raised the following grounds of appeal:

"1. The Ld. CIT(A) erred in confirming disallowance of Long Term Capital Gain on sale shares of Rs. 14077154/- u/s 10(38) as made by Ld. Assessing Officer

(hereinafter referred to as the "Ld. AO"]. Such disallowance is bad in law & erroneous in facts and therefore liable to be deleted

2. The Ld CIT(A) erred in confirming the addition made by Ld. Assessing Officer hereinafter referred to as the "Ld. AO") to extent of Rs. 14077154/u/s 6B. Such addition is bad-in-law & erroneous in facts and therefore liable to be deleted.

3. The Ld CI T(A) erred in confirming the addition made by Ld. Assessing Officer Thereinafter referred to as the "Ld. AO"] to extent of Rs. 281543/- as commission expenses. Such addition is bad in law & erroneous n facts and therefore liable to be deleted."

2. The assessee is an individual and field the return for the AY 2014-15 on 24.11.2014 declaring total income of Rs.30,74,340/- computed after claiming exemption for Long Term Capital Gain u/s.10(38) of Rs. 1,35,17,318. The case was reopened under section 147 of the Act by issue of notice under section 148 dated 14.09.2016. In response the assessee submitted that the earlier return filed on 24.11.2014 may be treated as filed in response to notice under section 148. The assessee filed the details called for by the AO from time to time. The AO passed the assessment order under section 147 r.w.s.143(3) dated 22.12.2016 assessing the total income at Rs. 1,74,33,040/-. The AO in the said order has disallowed the claim of exemption for Long Term Capital Gains under section 10(38) for Rs. 1,40,77,154, and also made an addition towards commission expenses to the tune of Rs.2,81,543. Aggrieved the assessee filed further appeal before the CIT(A). The CIT(A) dismissed the appeal and the assessee is in appeal before the Tribunal

3. There is a delay of 462 days in filing the appeal and in this regard the assessee has filed a petition for condonation of delay along with an affidavit containing the reasons for the delay. The ld AR submitted that assessee has filed an appeal before the Tribunal earlier on time (ITA No.783 of 2024) and the Tribunal vide order dated 20.09.2024 has dismissed the appeal as not admitted for

the reason that Form 36 was not signed by the assessee. The ld AR further submitted that the assessee inadvertently failed to take notice of the Tribunal's order since assessee's mother fell sick around that time and the assessee was busy managing her hospitalisation. The ld AR also submitted that the assessee has undergone lot of personal issues due his mother's cancer diagnosis and therefore could not concentrate on the income tax matter. The ld AR accordingly prayed that there is a reasonable cause for the delay in filing the appeal and therefore the delay may be condoned. The ld DR on the other hand vehemently submitted that the delay should not be condone.

4. 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 462 days in filing the appeal and admit the appeal for adjudication.

5. We heard the parties and perused the material on record. The ld AR on merits submitted that the CIT(A)has not examined the issues contended on merits and has also not given proper opportunity to the assessee to file any documentary evidences. On perusal of CIT(A)'s order we notice that the CIT(A) has simply extracted the findings of the AO and by placing reliance on the decision of the Hon'ble Calcutta High Court in the case of Swati Bajaj (IA NO. GA/2/2022 IN ITAT/6/2022) and 90 others) has upheld the addition. The CIT(A) it is noticed that has not given any findings on merits and has also not called for any details / evidences to be furnished by the assessee. Considering these facts which are unique to the assessee's case we are of the view that the assessee should be given

one more opportunity in the interest of natural justice and fair play. Accordingly we remit the appeal back to the CIT(A) with a direction to consider the impugned issues on merits by calling for relevant details and decide in accordance with law. The assessee is directed to file the details as may be called without seeking unnecessary adjournments and cooperate with appellate proceedings. It is ordered accordingly.

6. In result the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 28-08-2025.

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

Sd/-
(PADMAVATHY S)
Accountant Member

**SK, Sr. PS*

<u>Copy of the Order forwarded to</u> :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai

Sr. No.	Details	Date	Initial	Designation
1	Draft dictated on PC	20.08.2025		Sr.PS/PS
2	Draft Placed before author	21.08.2025		Sr.PS/PS
3	Draft proposed & placed before the Second Member			Sr.PS/PS
4	Draft discussed/approved by Second Member			JM/AM
5	Approved Draft comes to the Sr.PS/PS			JM/AM
6	Order pronouncement on			Sr.PS/PS
7	File sent to the Bench Clerk			Sr.PS/PS
8	Date on which the file goes to the Head clerk			Sr.PS/PS
9	Date on which file goes to the AR			
10	Date of Dispatch of order			