

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH “F”, MUMBAI
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER
&
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

- 1. ITA NO. 4867/MUM/2025(A.Y: 2012-13)**
- 2. ITA NO. 4887/MUM/2025(A.Y: 2017-18)**

Saranga Anil Aggarwal

7th Floor, RNA Corporate Park, Vs.
Kalanagar, Bandra East,
Mumbai-400 051

PAN: AACPA8301L

ACIT, Circle 14(1)(1),

Aayakar Bhavan, Maharshi
Karve Road, New Marine
Lines, Churchgate, Mumbai-
400 020

(Appellant)

(Respondent)

Assessee Represented by	:	ShriDharan Gandhi, Ld. AR
Department Represented by	:	ShriVivek Perampurna (Sr. DR.)
Date of conclusion of Hearing	:	17.09.2025
Date of Pronouncement	:	24.09.2025

ORDER

PER RAJ KUMAR CHAUHAN (J.M.):

1. Both the appeals are filed by the appellant/assessee against the common but separate orders of Learned Commissioner of Income Tax (Appeals) – 51, Mumbai [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as



“the Act”] for the AY 2012-13 and 2017-18 dated 26.12.2022 and 20.01.2023 respectively, wherein the appeals of the assessee are dismissed ex-parte for lack of prosecution and not pursuing the appeal before the revenue authority.

2. Since the facts of both the appeals filed by the assessee are exactly same, parties are same, also the orders are common and the matter involved is also similar, therefore both the appeals are being disposed of by this common order, in order to avoid the multiplicity of the decision. First of all, we are taking ITA No. 4867/Mum/2025 for AY 2012-13 as lead case.

3. The brief facts of the case as culled out from the proceedings of authorities below are that the assessee is engaged in Construction and Sale / purchase of immovable property. The assessee has failed to file valid return of income u/s. 139 of the Act. Therefore, the assessment was reopened u/s. 147 of the Act by issuing notice u/s. 148 of the Act dated 31.03.2019. Notice u/s. 148 was duly served on the assessee and the assessee filed return of income on 18.04.2019 declaring total income at Rs. NIL. Further Notice u/s. 142(1) dated 12.10.2019 and subsequently, notice u/s. 143(2) was issued on 20.11.2019. In response, the assessee neither filed



any submission nor sought any adjournment. Thereafter, the Ld. AO passed an assessment order u/s. 147 r.w.s 143(3) r.w.s 144 of the Act on 14.12.2019 by assessing the total income at Rs. 11,56,70,400/-.

4. Aggrieved by the order of AO, assessee preferred the appeal before Ld. CIT(A) who dismissed the appeal of the assessee ex-parte on the ground that despite services of various notices, the assessee has failed to present its case before him and for lack of prosecution, the Ld. CIT(A) has confirmed the order of AO and dismissed the appeal of assessee without going into the merit of the case.

5. Aggrieved by the order of Ld. CIT(A), the assessee has preferred the appeal before us and has raised the following grounds of appeal:-

“1. On the facts and circumstances of the case and in law, the non-compliance of the appellant in respect of the notices issued by the CIT (A) / AO may please be excused as it was for the genuine reasons and the appeal of the appellant before the CIT (A) may please be restored back or alternatively, the matter may be restored back to the Assessing Officer for fresh assessment.

2. On the facts and circumstances of the case and in law, without prejudice to the above, the learned CIT (A) has erred in dismissing the appeal without dealing with the grounds of appeal raised before him on merits.



3. *On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition of Rs. 11,34,69,800 as unexplained investment in respect of the immovable property purchased by the appellant during the year under consideration.*

4. *On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the addition of Rs. 22,00,600 as interest income of the appellant.*

5. *On the facts and circumstances of the case and in law, without prejudice, the Ld. CIT(A) ought to have appreciated that the amount of interest income as added by the Ld. Assessing Officer was double the amount of interest income which was reflected in Form 26AS of the appellant.*

The Appellant craves leave to add, alter, amend, vary and / or withdraw any or all the above grounds of appeal.”

6. It is to be noticed that as per Registry, there is delay of 885 days in ITA No. 4867/Mum/2025 for AY 2012-13 (lead case) and there is delay of 857 days in ITA No. 4887/Mum/2025 for AY 2017-18. The assessee/appellant has filed a detailed application seeking condonation of delay and has elaborated the causes of delay for making out a sufficient cause for condonation of delay.

7. We have heard Ld. AR and Ld. DR and examined the record. At the outset, Ld. AR on behalf of the assessee submitted an application for seeking



condonation of delay alongwith detailed affidavit narrating the reasons for not filing the appeal before the due date and the contents of the affidavit are extracted below:-

“1. The order u/s 250 for A.Y. 2012-13 has been passed in my case on 26th December, 2022 confirming the addition amounting to Rs. 11,56,70,400 and thereby confirming a demand of Rs. 9,68,56,810.

2. I hereby confirm that the copy of the said order has not been served physically upon me or any other person authorized to receive it on my behalf.

3. I came to know about the fact that such an order has been passed recently when the Jurisdictional Assessing Officer issued the letter for recovery for outstanding dues which reached by hands on 18th July, 2025. Vide this letter, the status of the appeal filed in respect of the year under consideration had been inquired.

4. The need of this affidavit has arisen on account of the reason that the said order has been sent through e-mail to the e-mail id which has been provided for sending the official communication over the e-filing portal of the Income-tax Department on the same date on which it has been passed and, therefore, there would be a delay in filing the appeal before the Honourable Income-Tax Appellate Tribunal if that date is considered to be the date of receipt of the order.

5. It is hereby confirmed that the e-mail address provided for sending the official communication over the e-filing portal of the Income-tax Department was accounts@rnacorporate.com and this was the general e-mail id of the accounts department of the RNA Group of Companies in which I am one of the promoters.

6. I am a senior citizen lady having age of 65 years and, therefore, I have to depend upon others for communications through e-mails etc. Late Shri Anil Aggarwal was



the promoter of RNA Group which was one of the prominent groups engaged in the business of construction of residential and commercial properties in Mumbai. The day-to-day business activity of the group including my own business was managed by Late Shri Anil Aggarwal, who was the chairman of the group. With the objective of centralizing the monitoring of the tax compliance, the e-mail id of the accounts department of the group which was coming under his purview was being provided as the official e-mail id for all the entities in the group as well as the family members including myself as per his instructions.

7. Upon untimely demise of the Shri Anil Aggarwal on 1 May, 2014, the entire RNA Group lost its leader and no one else could succeed him for taking the control of the group immediately. The Group was primarily into redevelopment and since Late Shri Anil Aggarwal himself was dealing with the tenants, finalizing the project design, looking into the approvals, etc, his untimely passing away brought the business of the Group almost to a standstill situation. The construction of projects slowed down and eventually stopped. This choked up the cashflows and as consequence of which the Group started defaulting in its debt servicing obligations.

8. As a result of drying up of the project cashflows and the consequent defaults in servicing of debts, the banks initiated recovery proceedings, including invoking of the personal guarantees of myself and other family members. Four companies of the group were dragged under IBC proceedings including the flagship company of the group namely RNA Corp Pvt. Ltd.

9. The corporate office of the Group was in the building (RNA Corporate Park) which was owned by one of the group companies, Maharashtra Theatres Pvt Ltd. The computer systems and all the records were located in this particular office of the group. The premises in which the corporate office of the group was situated were being mortgaged by that company to Dena Bank against the its borrowings, Due to non-servicing of the debts, the banks started recovery proceedings and took over the possession (by sealing) the mortgaged properties with them on 6th October, 2018, which included those properties where the Group's corporate office was situated.



10. There were many such financial defaults which had occurred in several companies of the group and, as a result of which, various proceedings were being launched against the entire group which included taking over of the mortgaged properties.

11. The NCLT, Mumbai vide its order dated 16th July, 2019, had admitted the petition filed under Section 7 of IBC, 2016 against Chamber Constructions Pvt. Ltd. and had appointed the Insolvency Resolution Professional. This petition was filed by Bank of Baroda consequent to default in repayment of its dues to the tune of Rs. 16.03 crores. Finally, the NCLT, Mumbai vide its order dated 21st February, 2024 sanctioned the liquidation of the said company against which the relevant proceedings are pending before the NCLAT, Delhi and stay has been granted over it.

12. In respect of another group company i.e. RNA Corp. Pvt. Ltd. which was in fact a flagship company of the entire group, the NCLT, Mumbai vide its order dated 26th November, 2019, had admitted the petition filed under Section 7 of IBC, 2016 by Bank of India consequent to the default in repayment of its dues to the tune of Rs.80.73 crores. The suspended Board of Directors of this company had preferred an appeal against this order before the Hon'ble NCLAT which was dismissed vide order dated 7th February, 2020. Consequently, a Civil Appeal No. 827-828/2021 challenging the Hon'ble NCLAT's dismissal was preferred before the Supreme Court which is pending for final adjudication.

13. The similar proceeding under IBC, 2016 was also initiated by State Bank of India against another group company i.e. A A Estate Private Limited wherein, the NCLT, Mumbai vide its order dated 6th December, 2022 admitted the petition filed by the bank for the outstanding debt amounting to Rs.135.26 crores. The insolvency resolution process is pending with the Insolvency Resolution Professional which has been appointed in this regard. The appeal was filed against the said order before the NCLAT which was dismissed vide its order dated 31st May, 2023 against which a Civil Appeal No. 4018/2023 has been filed before the Supreme Court which is also pending for final adjudication.



14. I am one of the personal guarantors of the credit facilities which were advanced by State Bank of India to A A Estate Pvt. Ltd. Therefore, in addition to filing of petition under Section 7 of the IBC by SBI against A.A. Estates Pvt. Ltd., SBI filed an application under Section 95 of the IBC on 20th (1/1) January, 2022 vide filing No. 2709138003282022 bearing case No. C.P. (IB) No. 452/MB/2022 to initiate Insolvency Resolution Process against me, in lieu of the personal guarantee provided by me for the credit facilities advanced by SBI to A.A. Estates Pvt. Ltd. In pursuance of the same, the NCLT, Mumbai vide its order dated 17th August, 2023 admitted the said petition filed under Section 95 of the IBC and appointed the Resolution Professional and the further proceeding in this regard is still pending.

15. In another petition filed by Axis Bank Ltd. under Section 7 of the IBC in respect of its claim of Rs.55.75 crores against Maharashtra Theatres Pvt. Ltd., the NCLT, Mumbai passed an order dated 31 March, 2023 admitting the petition and appointing the Insolvency Resolution Professional for the insolvency resolution process.

16. All of the companies as stated above being part of RNA Group, me and my family were also dragged in all the proceedings as referred above as well as several other proceedings since we were the directors as well as the personal guarantors.

17. Also, majority of the employees started resigning as the group was unable to pay their salaries. By the year 2021-22, over 90% of the employees had left the organization including senior employees who managed day-to-day affairs of the group. In so far as the accounts department was concerned, the last senior employee, Mr. Shivram Poojary, was available only till November-2019 and the department has been without any head since then.

18. As a consequence of all such events, most of the mails which have been sent to the said e-mail id (accounts@rnacorporate.com) have remained unseen and / or unattended due to lack of adequate manpower and due to the fact that whatever limited staff available had also become demotivated and inattentive as a result of delay in payment of their dues, extreme work pressure upon handful of employees,



lack of required infrastructure etc. Further, the systems and technology which were being used were never upgraded due to lack of funds. As a result, the system in place was such that it was not possible to access any given e-mail id from any other computer other than the one over which it had been configured (through outlook express). Therefore, during the time when the corporate office was not accessible as it was being sealed, it was not even possible for to access the e-mail id which was designated in my account. It was only from November-23, the appointed insolvency professional has permitted the access to the part of the office premises of the group.

19. I also hereby confirm that my son has been using his personal e-mail id for the purpose of other communications on my behalf mainly post the demise of my husband, Shri Anil Aggarwal. However, I did not realize that the said personal e-mail id should have been also updated in my account over the e-filing portal so that the communication could flow to me directly instead of going to the general e-mail id of the accounts department of the group.

20. The e-mail id of one, Mr. Rajendra Pawar (rajendra.pawar@rnacorporate.com) was also provided as an alternate e-mail id over the e-filing portal of the Income-tax Department. However, this employee had resigned with effect from 21 February, 2020 and, therefore, his personal e-mail id was not in use and not being accessed thereafter. Therefore, the mails addressed to me if were sent to this e-mail id have never reached to me after he had resigned.

20. Further, I was also advised by the concerned counsel that an interim moratorium had rigged as per Section 96 of the IBC in view of the proceeding initiated by State Bank of India under Section 95 of the IBC against me in my capacity as guarantor to the corporate debt of A A Estate Pvt. Ltd. as referred to in Para 14 of this affidavit. As a result, I was told that all the legal proceedings including the proceedings under the Income-tax Act were deemed to have been stayed. Accordingly, the attention as otherwise required was not given to the pending proceedings under the Income-tax Act.



22. However, recently, the Hon'ble Supreme Court vide its order dated 4th March, 2025 has held that a distinction must be drawn between the moratorium applicable to a corporate debtor under Section 14 of the IBC and the interim moratorium applicable to individuals and personal guarantors under Section 96 of the IBC. The former is much broader in scope and stays all proceedings against the corporate debtor, including execution and enforcement actions. However, Section 96 of the IBC is more limited in its scope, staying only "legal actions or proceedings in respect of any debt". On this basis, the Supreme Court disagreed to stay the execution proceeding launched against me under Section 27 of the Consumer Protection Act, 1986. Therefore, in view of this decision of the Supreme Court, a need has been felt to address all the pending proceedings on merits without prejudice to the impact of the interim moratorium under Section 96 of the IBC and whether they would be considered to have been stayed or not.

23/Upon receipt of the recent communication with respect to the recovery of outstanding demand, the concerned person assisting and handling the accounting and tax compliance of the group was asked to verify all the records, as a result of which, it came to my notice that the order in respect of the appeal filed has already been passed on 26th December, 2022 which has remained unaddressed.

24. So, the necessary appeal to be filed before the Honorable Income Tax Appellate Tribunal, Mumbai has been prepared and this affidavit is being prepared in support of the prayer for condonation of delay in filing the appeal."

8. The assessee put reliance upon the judgment of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition Vs. MST. Katiji & Ors.*, [1987] 167 ITR 471 (SC), dated 19.02.1987, the Hon'ble Apex Court was pleased to hold regarding the condonation of delay as under:



“The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits”. The expression “sufficient cause” employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making of justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.

And such a liberal approach is adopted on principle as it is realized that:

- 1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.*
- 2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.”*

9. The Ld. DR on the other hand supported the judgment of the Ld. CIT(A) and submitted that the assessee has not pursued its case before the lower authorities despite services of various notices and due to lack of prosecution, Ld. CIT(A) has dismissed the appeal of the assessee.

10. We have considered the arguments and examined the record. Since the assessee has filed affidavit in support of condonation of delay and no contradictory facts has been brought on record by the revenue to the effect that contents of the affidavit are false, we find it expedient in the interest of



justice that the assessee has shown sufficient cause for condonation of delay in filing the appeal before us. Hence, the delay in filing the appeal is accordingly condoned.

11. Further, it was argued on behalf of the appellant/assessee that the notice issued by the Ld. CIT(A) were never received or served upon the assessee and as such they could not present its case before the Ld. CIT(A) who proceeded ex parte and decided the appeal without giving effective opportunity of hearing to the assessee and as such the assessee was prevented from presenting its case before the Ld. CIT(A). Therefore, the impugned order suffers from illegality and liable to be set aside. The Ld. DR on the other hand supporting the judgment of the Ld. CIT(A) stating that there is no merit in the appeal and same is liable to be dismissed.

12. We have considered the rival submissions. Section 250 sub section 2(a) of "*the Act*" provides as under:

"Section 250 (2)

The following shall have the right to be heard at the hearing of the appeal: -

a. The appellant, either in person or by an authorised representative;"



13. It is evident from the provision that the hearing to be given is not a formality but an effective hearing is sine qua non for the purpose of upholding the principal of natural justice. We have examined the impugned order and in para no. 7 of the Ld. CIT(A) observed as under: -

“7. The first notice for hearing was issued on 15.12.2020 fixing the date of hearing on 28.12.2020. However, there was no response to this notice. Thereafter, subsequent notices dated 05.07.2021, 07.07.2022, 03.11.2022, 14.11.2022, 23.11.2022, 01.12.2022 and 14.12.2022 were issued fixing the hearings on various dates. However, it is observed that the assessee has neither complied to nor attended in response to any of these notices. It is also noticed that the assessee has not elaborated on the above grounds in the statement of facts filed along with the grounds of appeal. In view of these facts, it is clear that the assessee is not serious in pursuing his appeal. Therefore, the appeal of the assessee is dismissed for lack of prosecution.”

14. It is thus evident from the contents of the impugned order extracted above that no effective opportunity of hearing has been given and there is no proof that the notice sent on various dates were duly served or brought to the notice of the appellant/assessee. It is evident from the grounds taken in the appeal and also argued on behalf of the assessee that for the reasons mentioned in the affidavit of the assessee, the assessee could not present its case before the AO and the assessment order is also ex-parte. It was therefore submitted by the Ld. AR that it will be in the interest of natural



justice, if the case is remitted to the file of AO for fresh adjudication after giving opportunity of hearing to the assessee.

15. We have considered the above submissions and in the given facts as discussed above, we are considered opinion that the assessee has satisfactorily explained the reasons for non-appearance and failure to present its case before the AO as well as before the Ld. CIT(A), and both the Ld. Authorities below has passed the orders including the impugned order without an effective representation of the assessee during the hearing at the time of passing of the assessment order as well as impugned order which has resulted into miscarriage of justice.

16. For these reasons, we are of the considered opinion that matter needs to be restored to the file of the AO for deciding afresh after giving effective hearing to the assessee who shall present its case before the AO within 60 days. The impugned order of Ld. CIT(A) is accordingly set aside and appeal filed by the assessee is allowed for statistical purposes in above terms.



ITA NO. 4867 & 4887/MUM/2025

Saranga Anil Aggarwal

ITA NO. 4887/MUM/2025(A.Y: 2017-18)

17. Since this appeal also raises the similar grounds of appeal as raised by the assessee in ITA No. 4867Mum/2025 for AY 2012-13 including the grounds seeking condonation of delay in filing the appeal before the ITAT, therefore the findings in ITA No. 4867/Mum/2025 as returned above shall mutatis mutandis apply to this appeal also. Hence, the impugned order of Ld. CIT(A) is also set aside and the matter is remitted to the file of AO for deciding afresh on merit after giving effective hearing to the assessee who shall present its case before the AO within 60 days.

18. In the result, both the appeals filed by the assessee are allowed for statistical purposes in above terms.

Order pronounced in the open court on 24.09.2025.

Sd/-

(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)
Mumbai / Dated 24.09.2025
Dhananjay, Sr. PS

Sd/-

(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)



ITA NO. 4867 & 4887/MUM/2025

Saranga Anil Aggarwal

Copy of the Order forwarded to:

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

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mumbai