

। आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"F" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&

SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER

I.T.A. No. 2336/Mum/2025

Assessment Year: 2016-17

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| Uttam Hari More C-1502, Lodha Luxuria Priva Balkum S.O. Thane Thane - 400608 [PAN: AJGPM1210K] | Vs | Income Tax Officer |
| अपीलर्षी/ (Appellant) | | प्रत्यर्षी/ (Respondent) |

| | |
|---------------|------------------------------|
| Assessee by : | Shri Hemant Shetty, A/R |
| Revenue by : | Ms. Kavitha Kaushik, Sr. D/R |

सुनवाई की तारीख/Date of Hearing : 13/10/2025
घोषणा की तारीख /Date of Pronouncement : 16/10/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

This appeal by the assessee is preferred against the order dated 10/01/2025 by NFAC, Delhi [hereinafter "the Id. CIT(A)"] pertaining to AY 2016-17.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) dismissed the appeal *in limine*.

3. Briefly stated the facts of the case are that the assessee preferred the appeal before the Id. CIT(A) on 03/12/2023 against an *ex-parte* order by the AO framed u/s 147 r.w.s. 144 of the Act. The appeal was barred by limitation before the Id. CIT(A) and in his submissions in Column 15 of Form 35 stated that there was a delay of 613 days for filing of appeal being a non-resident, the assessee was not aware of the relevant provisions of the Act. The notices were received at the old address which was in Kolhapur and the relatives of the assessee did not inform

the assessee about the assessment order/notices. It was brought to the notice of the ld. CIT(A) that now the assessee is residing at Thane which address is mentioned while filing the return of income for the assessment year under consideration. The assessee pleaded for the condonation of delay. The ld. CIT(A) was not convinced with the contentions of the assessee and after issuing four notices, dismissed the appeal, without admitting the same.

4. We are of the considered view that the ld. CIT(A) ought to have dispassionately considered the delay in filing the appeal once the assessee has stated that he is a non-resident and earlier was residing at Kolhapur but now at Thane, the order/notices must have been sent to Kolhapur and his relatives did not inform him. Subsequently when the assessee came to know, he promptly filed the appeal. In our humble opinion, the appeal should not have been dismissed *in limine*, therefore, we restore the issues to the file of the ld. CIT(A). The assessee is directed to attend the appellate proceedings and furnish necessary details/evidence to the satisfaction of the ld. CIT(A) and the ld. CIT(A) is directed to decide the appeal on the merits of the case, after affording reasonable and adequate opportunity of being heard to the assessee.

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

Order pronounced in the Court on 16th October, 2025 at Mumbai.

Sd/-

(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 16/10/2025

**SC S.P.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त अपील (/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai