

। आयकर अपीलीय अधिकरण न्यायापीठ, 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. Nos. 6048 & 6047/Mum/2025

Assessment Years: 2018-19 & 2019-20

Jayshree Devi Ramji Gupta 303, Sai Madhuban S.L. Road, Above Mani's Café Mulund (West) Mumbai - 400080 [PAN: AHKPG8740Q]	Vs	Assistant Director of Income Tax, Centralized Processing Centre
अपीलकर्ता/ (Appellant)		प्रत्यर्था/ (Respondent)

Assessee by :	Shri Shashank Mehta, 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 : 15/10/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

I.T.A. Nos. 6048 & 6047/Mum/2025, are two separate appeals by the assessee preferred against two separate orders of the Id. CIT(A)/Addl./JCIT(A)-2, Jaipur [hereinafter 'the Id. CIT(A)'] dated 20/05/2024 & 09/01/2024 respectively, pertaining to AY 2018-19 and 2019-20.

2. Since common grievance is involved in both the appeals, they were heard together and are disposed off by this common order for the sake of convenience and brevity.

3. Appeal for AY 2018-19 is late by 437 days and that of AY 2019-20 is late by 586 days. The assessee has filed an affidavit stating the facts in filing the appeal after the period of limitation.

4. We have carefully perused the contents of the affidavit and given a thoughtful consideration to the facts of the causing the delay in filing the appeal. Though, the Id. D/R has strongly objected for the

condonation of delay but we are convinced that the assessee was prevented by reasonable and sufficient cause for not filing the appeal on time. The delay is, therefore condoned.

5. Having heard the representatives, we have carefully perused the orders of the authorities below. The assessee preferred appeal before the Id. CIT(A) after receiving intimation u/s 143(1) of the Act. The appellate proceedings could not be attended and the Id. CIT(A) passed an *ex-parte* order.

6. Briefly stated, the facts of the case are that the assessee is a widowed senior citizen earning income from business inherited from her late husband and also earns rental income from other sources. The husband of the assessee was carrying on the business of selling liquor under the trade name of Olympic Wines but expired on 06/08/2017 i.e., during FY 2017-18. The assessee inherited the business of her deceased husband and filed her return of income on 31/08/2018 when it was brought to her notice that income up to the date of death also has to be included in her return of income i.e., business income which is subjected to tax audit. Thereafter, the assessee declared total income of Rs. 38,04,700/- in her revised return of income which was filed along with the tax audit report.

6.1. Because of some legal formalities, the assessee could not operate the bank account but in the intervening period, the creditors were paid in cash amounting to Rs. 45,81,894/-. Since the auditor has mentioned the cash payment in the audit report while processing the return of income, the same was disallowed u/s 40A(3) of the Act.

6.2. As mentioned elsewhere, the appellate proceedings could not be attended and the Id. CIT(A) passed an *ex-parte* order and the assessee

had no opportunity to furnish necessary documents/details in support of her case.

7. We are of the considered view that considering the peculiar facts and circumstances of the case, the impugned issues need a fresh look by the AO since the processing has been done by the CPC and no scrutiny assessment was framed thereafter. Therefore, in the interest of justice and fairplay, we restore the issues to the file of the AO. The assessee is directed to furnish necessary details/documents justifying the payments in cash and whether the same violates the provisions of Section 40A(3) of the Act. The AO is directed to examine the same and decide the issue afresh after affording reasonable and adequate opportunity of being heard to the assessee.

8. The next quarrel relates to the non-granting of the credit of tax collected at source as the same was collected in the name of the husband of the assessee whereas, after the death of the husband the entire income has been assessed in the hands of the assessee, therefore, the AO is directed to examine whether the income has been calculated by the assessee in her return of income and if so, then allow the correct TDS/TCS as per the provisions of law.

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

Order pronounced in the Court on 15th October, 2025 at Mumbai.

Sd/-

(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-

(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 15/10/2025

**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