

IN THE INCOME-TAX APPELLATE TRIBUNAL "B" BENCH,
MUMBAI

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.1609/MUM/2025
(A.Y. 2018-19)

Saleha Khatoon Zafaruddin Ansari Flat No. 112, C-3, Ashiyana CHS Ltd, Mapkhan Nagar, Marol Maroshi Marg, Andheri(E), Mumbai - 400059, Maharashtra	v/s. बनाम	Income Tax Officer, Ward - 31(1)(1), Kautilya Bhavan, Bandra Kurla Complex, Bandra (East), Mumbai - 400051, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ADFPA4915J		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Vimal Punmiya,AR
Respondent by :	Shri Leyaqt Ali Aafaqui, (Sr. DR)

Date of Hearing	29.09.2025
Date of Pronouncement	28.10.2025

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 07.06.2024 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to assessment order passed u/s. 147 r.w.s. 144 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 01.03.2023 for the Assessment Year [A.Y.] 2018-19.



2. The grounds of appeal are as under:

1. *The learned assessing officer erred in facts and at law in adding the whole of consideration of sale of flat for Rs. 1,55,62,500/- to the income of the appellant.*
2. *The learned assessing officer erred in not giving benefit of the cost of acquisition as well as the indexation of the same to the appellant.*
3. *The learned assessing officer erred in not giving proper opportunity of being heard to the appellant.*
4. *The learned assessing officer erred in levying interest and penalties under various sections of the income tax act.*

3. At the outset, it may be stated here that the instant appeal is delayed by 212 days. Before us, a condonation application alongwith an affidavit has been filed by the assessee stating that she is an uneducated lady and not versed with English language as well as handling emails on her own. She had received notices and order on her e-mail and only after being told by the Consultant, appeal was immediately filed.

4. Brief facts are that as per the information available with the Department, proceeding u/s 147 of the Act was initiated. However, on account of non compliance by the assessee, reassessment u/s 144/147 was completed assessing the total income at Rs. 1,56,24,150/-. Aggrieved with the said order, the assessee filed appeal with Id.CIT(A) who noted that during appellate proceedings, a number of opportunities were provided to her, but they remained un-complied with. Accordingly, he dismissed the appeal *in limine*.



5. On careful consideration of the submissions of the assessee, we are of the considered opinion that the delay in filing of the present appeal was not intentional but due to lack of proper communication mainly on account of the assessee, being an illiterate lady was not conversant with e-communication mode and could not evaluate the implications thereof. We do appreciate that dismissal of the appeal on account of delay would cause genuine hardship to her and also would amount to taking away a substantive right of the assessee. In this connection, reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in **Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC)** that *“ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs*



serious risk.” We therefore, condone the delay in filing instant appeal before us.

6. We further notice that since the appellate order has been passed dismissing the appeal *in limine* on account of non-compliance by the assessee, none of the issues raised in the grounds of appeal involved have been adjudicated. Consequently, the Id.CIT(A) could not evaluate the points of consideration so as to give his own decision on objective analysis of all relevant facts and circumstances of the case. Besides, even the assessment order also has been passed *ex parte*.

7. Considering the entirety of the facts and the circumstances of the case and in the interest of principles of natural justice and fair play, we consider it appropriate to send the matter back to the file of the AO in the light of above discussion, granting one final opportunity to the assessee to advance her arguments and submissions before him so as to provide details in connection with the merits of the case. Accordingly, in the substantial interest of justice, we set aside the appellate order and restore the entire matter back to the Id.AO for passing the assessment order *de novo* after allowing adequate opportunity of hearing to the assessee who is also directed to attend



the assessment proceedings before the AO without fail and cooperate with him in furnishing relevant details etc as sought by him.

7.1 Before parting, we may make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by him independently and in accordance with law.

8. In the result, the grounds of appeal and the appeal are **allowed for statistical purposes.**

Order pronounced in the open court on 28/10/2025.

Sd/-

NARENDER KUMAR CHOUDHRY

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 28.10.2025

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.



3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

