

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH MUMBAI**

BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

**ITA No.677/Mum/2025
(Assessment Year: 2015-16)**

&

**ITA No.678/Mum/2025
(Assessment Year: 2016-17)**

Pujya Sindhi Panchayat Trust Vishrali Naka, Near Kanak Automobile Panvel, Raigad, Panvel- 410206.	Vs.	ITO(E), Thane Ashet IT Park, Road No. 162, Wagle Industrial Estate, Thane West, Mumbai- 400604
PAN/GIR No. AABTP4266E		
(Applicant)		(Respondent)

Assessee by	Shri. Hari Krishan
Revenue by	Shri. Kiran K. Chhatrapati, Sr.-DR.

Date of Hearing	04.09.2025
Date of Pronouncement	25.11.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

These two appeals have been filed by the assessee challenging the different impugned orders dated 28.11.2024 and 25.06.2024 respectively passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2015-16 and 2016-17.

2. Since all the issues involved in these two appeals are common and identical and belongs to one assessee therefore, they have been clubbed, heard together and consolidated order is being passed. Firstly I shall take **ITA No. 677/Mum/2025, A.Y 2015-16** as lead case and facts narrated therein.

ITA No. 677/Mum/2025, A.Y 2015-16

3. At the very outset, I noticed that assessee has raised the additional ground for the first time before me which is reproduced herein below:

The adjustment of Rs. 21,14,081/- made to the income of assessee in the intimation dated 02.02.2018 issued u/s 143(1)(a) of the Act is invalid and bad in law, as it has been made without sending a prior communication to the assessee as required by the first proviso and second proviso to section 143(1)(a) of the Act.

4. At the outset, I noticed that the above ground is legal in nature and goes to the roots of the case, therefore while following the principles laid down in the decision of Hon'ble Supreme Court in the case of **The Jute Corporation India Ltd., Vs. CIT, 187 ITR 688** and **The NTPC Vs. CIT, 229 ITR 383** and also considering the facts of the present case, I allow the application for

raising the additional ground and consequently the said ground is admitted to be heard on merits.

5. Since this ground also needs verification of assessment records therefore I am of the view, in my view, the interest of justice would be met only if the matter is restored back to the file of Ld. CIT(A) for deciding the same after consulting and verifying the assessment records, needless to mention after providing opportunity of hearing to the assessee. Thus, keeping in view the above factual position, the present appeal of the assessee is restored to the file of Ld. CIT(A) for adjudicating the additional grounds on merits by providing opportunity of hearing to the parties. The Ld. CIT(A) shall be at liberty to call for any other document from the parties or to call for remand report.

6. Before parting, I make it clear that my decision to restore the matter back to the file of Ld. CIT(A) shall in no way be construed, as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

7. Since I have restored the additional grounds raised by the assessee to the file of Ld. CIT(A) for decision on merits

therefore other grounds raised by the assessee which are dependent upon the outcome of the above ground are also restored back. As the outcome of the decision of the additional grounds would have bearing on the other grounds as well.

8. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

ITA 678/Mum/2025, A.Y 2016-17

9. At the very outset, I noticed that there is delay of 152 days in filing present appeal and in this regard an application for seeking condonation of delay has been filed by the assessee, wherein it has been mentioned as under:

1. I, Mahesh P Tanwani Trustee of M/s Pujya Sindhi Panchayat Trust Solemnly affirm as under:

The order of the CIT (A) in this case was passed on 25-06-2024. Accordingly, the appeal before the Hon'ble Tribunal was due on or before 24-08-2024. The appeal has been filed on 30-01-2025. Thus there is delay of 160 days in filing of the appeal.

3. The registered email id psptpanvel@gmail.com of the Trust belongs to Mr. Rakesh Tanwani, who is nephew of treasurer Mr. Mahesh Tanwani. The user id and password of Income Tax e-portal was also handled by Mr. Rakesh Tanwani. Mr. Rakesh Tanwani however by an oversight had not informed the

Trustees about the order of the CIT (A) in this case passed on 25-06-2024.

While analyzing the Income Tax Portal, after receiving the order of the Commissioner of Income Tax (Appeals) dated 28.11.2024 for the assessment year 2015-16, the assessee further noticed that, the appellate order for the A.Y 2016-17 has been already issued by the Commissioner of Income Tax (Apeals) on 25/06/2024 and the appeal has remained to be filed against the same. Thereafter, the appeal has been filed before the Hon'ble Tribunal on 30/01/2025, resulting in delay of 160 days in filing the appeal.

10. On the other hand Ld. DR refuted the contents contained in the application and requested for dismissal of the same.

11. Considering the entire factual position as explained before us and also keeping in view, the principles laid down by Hon'ble Supreme Court in the case of **Land Acquisition Collector Vs. Mst. Katiji& Ors., [1987] AIR 1353 (SC)**, wherein it has been held that where substantial justice is pitted against technicalities of non-deliberate delay, then in that eventuality substantial justice is to be preferred. In my view the principals of advancing substantial justice is of prime importance. Hence considering the explanation put forth by the Assessee by justifiably and properly explaining the delay which occurred in filing the appeal and construing the expression " sufficient cause" liberally I am inclined to

condone the delay in filing the appeal before the Tribunal. Therefore I condone the delay and admit the appeal to be heard on merits.

12. From the records, I noticed that assessee was *ex-parte* before Ld. CIT(A). In this regard Ld. AR explained the circumstances before the bench that there was reasonable cause as explained in the application for condonation of delay which prevented the assessee to represent properly before Ld. CIT(A). On the other hand DR relied upon the orders passed by the revenue authorities.

13. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that there was reasonable cause, because of which assessee could not put effective representation before Ld. CIT(A). Hence the Bench is of the view that one more opportunity be given to the assessee to represent his case before Ld. CIT(A). Therefore considering the overall circumstances of the present case, I deem it proper to restore the matter back to the file of Ld. CIT(A) for deciding the matter afresh by providing one more opportunity to the assessee. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

14. Before parting, I make it clear that my decision to restore the matter back to the file of the Ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

15. In the result the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25.11.2025

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 25/11/2025
KRK, Sr. PS.

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

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

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai