

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JM

ITA No. 5705/Mum/2025
(Assessment Year: 2011-12)

Savita Rameshchandra Mehta Flat No. 18, Hit Niketan Co-op. Hsg. Soc. SPS Road, Kokan Nagar, Bhandup West, Mumbai – 400078.	Vs.	Ward 41(1)(4), Mumbai
PAN/GIR No. AAHPM3210B		
(Appellant)	:	(Respondent)

Assessee by	:	Shri R. L. Rathi
Respondent by	:	Shri Praveen K. Srivastav, SR. DR

Date of Hearing	:	19.11.2025
Date of Pronouncement	:	27.11.2025

ORDER

Per Narender Kumar Choudhry, J M:

This appeal has been preferred by the Assessee against the order dated 26.05.2025, impugned herein, passed by the ADDL/JCIT (A)-7 Kolkata/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2011-12.

2. At the outset, it is observed that there is a delay of 45 days in filing the instant appeal, on which the assessee has stated that though the impugned order was passed on 26.05.2025 but in fact the same was received from the income tax portal on 30.05.2025, which resulted into delay in filing the instant appeal, which was neither intentional nor malafide and therefore the same may be condoned. The assessee also supported the aforesaid reason by filing delay sworn affidavit. Considering the peculiar facts and circumstances and



reasons stated for condonation of delay as plausible and reasonable, the delay is condoned.

3. Coming to the merits of the case, it is observed that the impugned order passed against the assessment order dated 21.12.2018, u/s. 143(3) r.w.s. 147 of the Act, is an ex parte order. The assessee before the authorities below though claimed to have purchased a property on a consideration of Rs. 50,16,000/- jointly being 1/3rd owner of the property in one part and 50% ownership of the property on other part. However, the AO still made the addition of **Rs. 11,65,500/-** u/s. 69B of the Act being differential amount between the stamp duty value and consideration shown by the assessee in the agreement of property.

4. The Ld. Commissioner on appeal, though issued various notices to the Assessee, such as three notices during covid-19 and two notices thereafter on 20.09.2023 and 09.01.2025, however the assessee made no compliance and therefore the Ld. Commissioner decided the appeal of the Assessee as ex-parte and seeing the fact that the flat was jointly owned by the assessee's husband along with his wife (assessee) being 50% shareholder, affirmed the aforesaid addition made by the AO, by dismissing the appeal of the Assessee.

5. This Court by considering peculiar facts and circumstances and determination made by the Authorities below, is of the considered opinion that for just and proper decision of the case and substantial justice, the appreciation of the facts and circumstances as involved in the instant case in view of the specific claim lodged by the assessee, is required. Thus, the case is remanded to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the assessee. The assessee is also directed to comply with the notices to be issued by the Ld. Commissioner and file the relevant details and documents, as would be essentially required for proper and just decision of the case.



6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 27.11.2025

**Sd/-
NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Mumbai;

Karishma J. Pawar, SR. PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai