

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

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 6675/Mum/2025
(Assessment Year: 2011-2012)**

**ITA Nos.6676 & 6677/Mum/2025
(Assessment Year 2012-2013)**

Anju Manish Gangar Flat No.B-3-11/2, Sector-3, Vashi, Navi Mumbai – 400703	Vs.	Deputy Commissioner of Income Tax – 22(3) Tower – 6, Vashi Railway Station, 3 rd Floor, Vashi Navi Mumbai - 400703
PAN/GIR No. AIBPG4309H		
(Applicant)		(Respondent)

Assessee by	Shri Nishit Gandhi (Virtually appear)
Revenue by	Shri Rajesh Kumar Yadav CIT DR & Shri Surendra Mohan, Sr. DR

Date of Hearing	16.12.2025
Date of Pronouncement	18.12.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

These present appeals have been filed by the assessee challenging the impugned order dt. 24/11/2025, 06/10/2023 and 25/09/2023 passed under section 250/263 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2011-2012 and 2012-2013.

2. Since all the issues involved in these two appeals are common and identical, therefore, they have been clubbed, heard together and consolidated order is being passed for the sake of convenience and brevity. We shall take **ITA No. 6675/Mum/2025, A.Y 2011-12** as lead case and facts narrated therein.

ITA No. 6675/Mum/2025, A.Y: 2011-12.

The assessee has raised the following grounds of appeal:

“1.1 In the facts and circumstances of the case and in law, the Learned Commissioner of Income tax (Appeals), National Faceless Appeal Centre, Delhi [“Ld. CIT (A)”] erred in confirming the ex-parte assessment order passed u/s 144 of the Income Tax Act, 1961 [the Act] by the Deputy Commissioner of Income Tax 22(3), Mumbai [“the DCIT” or “the AO” for short] in gross violation of principles of Natural Justice.

1.2 While passing the said order the CIT(A) failed to appreciate that:

(i) The assessment order is itself passed on an ex-parte basis u/s 144 of the Act without appreciating that the Assessee could not represent her case before the Ld. AO on account of the death of her Chartered Accountant;

(ii) The Appellant has not received any notice of hearing and in fact the appeal was migrated to the National Faceless Appeal Centre without any knowledge of the Assessee and therefore no reply could be filed before the Ld. CIT(A);

(iii) The said Appellate order is passed in complete breach of the principles of natural justice as also in contravention of the extant law in this regard and is also without an independent reasoning whatsoever, and;

(iv) The assessment order itself is passed without granting a fair opportunity of being heard to the Appellant and a specific ground to this effect was raised by the Assessee and despite this the Appellate Order came to be passed confirming the Assessment order

1.3 It is submitted that, in the facts and the circumstances of the case, and in law, the appellate order so framed be quashed and set aside”

3. At the very outset, we noticed that there is a delay of 990 days in filing the present appeal and in this regard assessee has filed an application for seeking condonation of delay in filing appeal before the Tribunal, which is reproduced herein below:

(i) The Assessee ("the Applicant" herein) has filed the captioned appeal under section 253 of the Income tax Act, 1961 ("the Act") before the Hon'ble Income Tax Appellate Tribunal ("the Tribunal" for short) against the order dated 24.11.2022 passed by the Learned Commissioner of Income tax (Appeals), National Faceless Appeal Centre, Delhi ["the Ld. CIT(A)" for short] whereby the appeal of the Assessee stood rejected by him on ex-parte basis.

(ii) The Applicant (the Appellant / the Assessee) is an individual woman assessee, holding a PAN AIBPG4309H. The appellant is not well educated lady and does not possess sufficient knowledge of income-tax laws and procedural compliances. She is wholly dependent upon professional assistance for attending to her tax matters.

(iii) That the appellant's earlier Chartered Accountant, who was also her brother-in-law (Sister's Husband) was handling all her income-tax and financial affairs, However, he suddenly expired in the year 2013 leaving the Assessee and her family in shock. Post his death the assessee has never had a regular Chartered Accountant. As such after the Assessment, even

the appeal was filed before the Ld. Commissioner of Income Tax (Appeals) with the help of one Chartered Accountant as suggested by a friend.

(iv) It appears that, certain notices were uploaded on the Income Tax Portal by the Ld. CIT(A). However, the Notices were not received by the Assessee since the same were not sent on registered email-id of the Assessee. As a result, the Assessee had no knowledge of the said notices having been issued by the Ld. CIT(A).

(v) The Assessee is under the impression that the Appeal filed by the said CA would be represented by him. However, post COVID 2019 the CA discontinued his services and subsequently the Appeal was transferred to the National Faceless Appeals Centre [NFAC]. Further, the Applicant is not aware any of the notices are issued and therefore none of the Notices were received by the Assessee. However, the emails of the Notices were apparently sent to some other email ID. As a result, the Ld. CIT(A), NFAC by way of an ex-parte order confirmed the Assessment Order passed u/s 144 of the Act.

(vi) The Assessee further submits that no physical copy of the order is served on the Assessee. Further, since the appeal was pending for 8 to 9 years, the appellant was under the impression that the appeal is still pending Further, since the Appellant does not have a regular chartered Accountant and as she is not aware of the nitty gritty of Tax Law and she does not even know how to operate the income tax portal, she had no knowledge of the order having been uploaded on the portal. It is only when the Assessee received intimation regarding initiation of recovery proceedings by way of Online Service of the Orders Letter dated 28.06.2025 for A.Y. 2011-12 from the Department, that she consulted another CA on the same. The said CA enquired with her as regards the status of the appeal filed before the Ld. CIT(A). However, since she had no idea, the said CA helped her and informed her that an order has already been passed by the Ld. CIT(A) on an ex-parte basis. It is only then the Appellant realized that an order was passed against her by the ld. CIT(A).

(vii) Thereafter, she again consulted the said CA who advised her to challenge the said order in appeal before the Hon'ble Income Tax Appellate Tribunal. As such under advice from the Counsel, against this action of the Ld. CIT(A) and the ld. AO, the Appellant has preferred the present appeal with a prayer to condone the delay in filing this appeal, since (i) The delay is caused for reasons beyond the control of the Assessee; (ii) The delay was not deliberate or intentional; (iii) Both the lower authorities have passed their orders without hearing the Assessee; and; (iv) In any case, no prejudice would be caused to the Revenue since ultimately the appeal is to be decided on merits and on the other hand grave and irreparable damage would be caused to the Appellant since the only effective remedy of appeal before this final fact finding authority would be lost.

viii) The Appellant accordingly most humbly prays before this Hon'ble Tribunal that the delay in filing be condoned and the captioned appeal be adjudicated on merits..

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

5. After having heard the counsel for both the parties on this application for seeking condonation of delay and considering the entire factual position as explained before me and also keeping in view the principles laid down by Hon'ble Supreme Court in the case of **Land Acquisition Collector Vs MST Katiji and others 1987 AIR 1353 Supreme Court**, 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 our 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 we are inclined to condone the delay in filing the appeal before us. Therefore we condone the delay and admit the appeal to be heard on merits.

6. We also noticed that assessee was *ex-parte* before AO and Ld. CIT(A). In this regard Ld. AR explained the circumstances and relied upon the reasons mentioned in application for seeking condonation of delay which prevented the assessee to represent properly before the Revenue authorities.

7. 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 AO. Hence the Bench is of the view that one more opportunity be given to the assessee to represent her case before AO. Therefore considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of AO for denovo assessment deciding the grounds afresh by providing one more opportunity to the

assessee, subject to a cost of Rs. 5,000/- imposed upon the assessee which shall be deposited in the Prime Minister Relief Fund and a copy of the receipt shall be placed on file before AO within 30 days from the date of receipt of this order. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

8. Before parting, we 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 the AO independently in accordance with law.

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

ITA Nos. 6676 & 6677/Mum/2025, A.Y 2012-13

10. As the facts and circumstances in these appeals are identical to ITA No 6675/Mum/2025 for the A.Y 2011-12 (except variance in days of delay) and the decision rendered in above paragraph would apply *mutatis mutandis* for these appeal also. Accordingly, the grounds of appeal of the present appeal also stands allowed for statistical purposes.

11. In the result, all the appeals filed by the assessee are stands allowed for statistical purposes.

Order pronounced in the open court on 18.12.2025

Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 18/12/2025

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//

1.

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