

आयकरअपीलीयअधिकरणन्यायपीठमुंबईमें
IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JM&
SHRI ARUN KHODPIA, AM

I.T.A. No.6341/Mum/2025
(Assessment Year: 2024-25)

Murtaza Hasanali Netterwalla, 05, Sagar Building, 327, Narsi Natha Street, Masjid Bunder (w) Mumbai – 400009 Maharashtra PAN: AABPN3698	Vs.	Income Tax Officer, CPC, Bangaluru, Karnataka - 560500
Assessee-अपीलार्थी / Appellant	:	Revenue-प्रत्यर्थी/ Respondent

Assessee by : None
Revenue by : Shri Annavaram Kosuri, Sr. DR
Date of Hearing : 08.12.2025
Date of Pronouncement : 29.12.2025

ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the assessee, directed against the order of ADDL/JCIT, Appeals-4, (for short “Id. CIT(A)”), Bangaluru dated 12.08.2025, for the assessment year (AY) 2024-25, which in turn arises from the order dated 09.09.2024 passed by Central processing Centre (CPC), Bangaluru (for short

“Ld. AO”) under section 143(1) of the Income Tax Act, 1961 (for Short “The Act”).

2. The Ground of appeal raised by the assessee is as under:

CIT(A) erred in dismissing appeal without condonation of delay of 125 days despite sufficient cause. CIT(A) erred in rejecting appeal u/s 249(4)(a) despite part payment of 20% demand. CIT(A) failed to decide on merits, violating natural justice. CIT(A) failed to appreciate challan mismatch was only a technical error.

3. It is noticed from the ground appeal raised by the assessee, that the impugned appellate order was passed by the Ld. CIT(A) on *ex-parte* basis, by dismissing the appeal of assessee in account of delay in filing of appeal by 125 days. On perusal of the order of Ld. CIT(A), it is observed that the assessee was provided with 3 opportunities on 29.04.2025, 09.07.2025 and 08.08.2025 to represent his case, but assessee remain non responsive on all those occasions. As per column 14 of the form 35 (appeal memo before First Appellate Authority) furnished, the assessee had not admitted any delay in filing of the appeal. The issue in present appeal pertains to payment of tax and mismatch of tax payment, which constitutes a technical mistake as claimed by the assessee, however, such issue cannot be adjudicated, unless the impugned order challenged before us, has any finding *qua* the merits of the issue in terms of provisions of section 250(4) & (6) of the Act.

4. Before us none appeared on behalf of the assessee, which found to be at par with the assessee's conduct before Ld. CIT(A) also, however, on perusal of record and after hearing the respondent revenue, we consider it apt to dispose-off this matter, in the interest of justice.

5. It is apparent on the face of record that, the assessee had not responded before the Ld. CIT(A) to explain the sufficiency of cause for delay in filing of appeal in terms of the conditions stipulated u/s 249(4)(a) of the Act, neither had furnished any submission *qua* the merits of issue assailed. The observations made by the Ld. CIT(A), inferring that the appellant / assessee defrauded the revenue by mentioning non-existing challans for various assessment years, thus, had invoked provisions of section 276CC and 277, stating the willful attempt by the assessee to evade taxes and false statement in verification, cannot be concurred with in toto, unless the response of assessee would also be looked into, before deciding the issues one sided.

6. In present matter, we appreciate the finding of Ld.CIT(A), that the assessee was lackadaisical and negligent during the appellate proceedings, but in the interest of substantial justice, we find it appropriate to allow one more opportunity to the assessee to rebut with the documentary evidence to explain first the sufficient cause beyond his control to justify the condonation of delay

in terms of provisions of section 249 of the Act and further *qua* the merits on controversy raised.

7. We, therefore, are of the considered opinion that matter should be restored back to the file of Ld.CIT(A) for fresh adjudication, first on condonation of delay and if assessee succeed to substantiate the reasons for delay, then to decide the same on merits. This proposition is confronted to and fairly conceded by the Ld. SR. DR representing the revenue.

8. Needless to say, that the assessee shall be afforded with reasonable opportunities of being heard, however, the assessee should be compliant towards the notices issue and assist properly in the set aside appellate proceedings, failing which no further opportunities shall be granted, the Ld. CIT(A) would then be at liberty to decide the appeal and pass an appropriate order following the mandate of law.

9. Appeal of assessee, accordingly, allowed for statistical purposes, in terms of our observations herein above.

Order pronounced in the open court on 29-12-2025.

Sd/-
(AMIT SHUKLA)
Judicial Member
Mumbai, dated: 29-12-2025

Sd/-
(ARUN KHODPIA)
Accountant Member

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai