

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "C" BENCH, MUMBAI
BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA No. 3681/MUM/2025(AY: 2017-18)**

Mahesh Narsinghani F-94, APMC, Fruit Market, Sector-19, Turbhe Vashi, Navi Mumbai-400705.	vs.	ITO 28(2)(1) IT-Office, Vasi Railway Station Building, Navi Mumbai-400703.
PAN/GIR No: AAAPN3486D		
(Appellant)		(Respondent)

Appellant by	None
Respondent by	Shri Virabhadra Mahajan, Sr. DR
Date of Hearing	23.12.2025
Date of Pronouncement	05.01.2026

ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal filed by the revenue emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Commissioner of Income-Tax, National Faceless Appeal Centre [in short, 'CIT(A), NFAC'], Delhi, dated 04.02.2025 for the Assessment Year 2017-18.

2. The grounds of appeal raised by the assessee are as under:

"Improper Dismissal for Non-Prosecution-Miscommunication with AR:

1. *The learned CIT(A) erred in dismissing the appeal for non-compliance without appreciating that the Appellant was misled by his earlier Authorized Representative and had a bona fide belief that appropriate submissions were made. The opportunity of being heard was denied both during assessment and appeal stages*

Cash Deposits were Routine and Business-Linked:

2. *The learned lower authorities erred in treating the cash deposits of 28,59,760/- as unexplained under section 69A without appreciating that the said deposits were part of a the Appellant's regular wholesale fruit trading business at APMC Market, involving cash transactions from daily sales and recovery from sundry debtors.*

Improper Invocation of Section 69A:

3. *The authorities below erred in invoking section 69A, as the Appellant had sufficiently explained the source of cash deposits as arising from disclosed business activity. The addition was made without bringing any contrary material or rejecting books of account in terms of law."*

3. There is a delay of 24 days in filing the present appeal before the Tribunal.

The appellant has filed an affidavit stating that the delay was due to miscommunication and lack of co-ordination with the earlier tax consultant. No proper reply was filed before the CIT(A), which resulted in an *ex parte* order. The erstwhile consultant did not inform about the appellate order to the assessee. Subsequently, a new consultant was appointed and it took some time to explain the case to him. Therefore, there was minor delay of 24 days, which was neither intentional nor *mala fide*. On the other hand, the Id. Sr. DR of the revenue submitted that the assessee has not been able to properly explain the delay.

3.1 We have considered rival submissions and found that the delay was not deliberate or intentional. There was lack of communication between the earlier consultant and the assessee. The Id. AR submitted that it took little time to familiarize the new consultant with the facts of the case. Hence, a small delay of 24 days occurred in filing the appeal. Considering the submission of the appellant

along with the supporting documents including the affidavit, we find that there was sufficient cause for the minor delay of 24 days in filing the appeal. Hence, the delay is condoned and the appeal is admitted for hearing.

4. Facts of the case, in brief, are that assessee filed his return of income electronically on 06.11.2017 declaring total income of Rs. Nil. Based on the information that assessee has deposited substantial cash in his bank accounts, the case was reopened and notice u/s. 148 of the Act was issued on 09.04.2021. The assessee did not file any return in response to the notice u/s. 148. He also did not file any reply in response to the notices issued u/s. 142(1) of the Act. Thereafter, the AO passed order u/s. 147 r.w.s 144 r.w.s 144B of the Act on 22.05.2023 by making addition of Rs. 28,59,760/- u/s. 69A r.w.s 115BBE of the Act towards the cash deposited in Bank of Baroda, J&K Bank and Kotak Mahindra Bank. Aggrieved, assessee filed appeal before the CIT(A). The CIT(A) condoned the delay in filing appeal before him. He issued 8 notices as per the details in para 6.1 of the appellate order. There was no compliance to any of these notices. Hence, the CIT(A) dismissed the appeal for non-prosecution as well as on merits. Aggrieved, assessee has filed the present appeal before the Tribunal.

5. The case was posted for hearing on 16.07.2025, 21.08.2025, 08.10.2025, 16.12.2025 and 23.12.2025. The assessee appeared only in the first hearing but submitted letters for adjournment on the next two hearings. None attended on

the subsequent hearing dated 16.12.2025. However, in the interest of justice, another opportunity was granted and the case was re-fixed of hearing on 23.12.2025. None attended on above date. Therefore, no useful purpose will be served in prolonging the litigation. It is well settled that the Tribunal has power to dismiss the appeal if the appellant does not represent its case despite adequate and reasonable opportunity granted to him. Therefore, without delving into the merits of the case, we dismiss the appeal filed by the assessee for non-prosecution. However, liberty is granted to the assessee to seek recalling of this order by substantiating the reasons for non-appearance/compliance/prosecution.

6. In the result, the appeal is dismissed.

Order is pronounced on 05.01.2026

Sd/-

(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-

(BIJYANANDA PRUSETH)
ACCOUNTANT MEMBER

Anandi.Nambi(Steno)

MUMBAI

Date: 05.01.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar
ITAT, MUMBAI