

IN THE INCOME-TAX APPELLATE TRIBUNAL "G" BENCH,  
MUMBAI

BEFORE JUSTICE (RETD.) C. V. BHADANG, PRESIDENT  
&  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.5654/MUM/2025  
(A.Y. 2022-23)

<b>Sagar Devi Lal Joshi</b> 126/128, Laxmi Building, Nagdevi Street, Charni Road, Mumbai-400 003, Maharashtra	v/s. बनाम	Income Tax Officer, Ward- 26(2)(1), Kautilya Bhavan, Mumbai - 400 001, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AQCPJ3971F		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Shri Shrawan Kumar Gupta, Advocate (Virtually present)
Respondent by :	Shri Swapnil Choudhary, (Sr.DR)

Date of Hearing	11.11.2025
Date of Pronouncement	21.11.2025

**आदेश / ORDER**

**PER PRABHASH SHANKAR [A.M.] :-**

The present appeal arising from the appellate order dated 16.07.2025 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax, Appeal, ADDL/JCIT(A)-4 Kolkata [hereinafter referred to as "CIT(A)"] pertaining to the Intimation order passed u/s. 143(1) of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 16.03.2023 for the Assessment Year [A.Y.] 2022-23.



2. The grounds of appeal are as under:

- 1.1. *The impugned order u/s 143(1) dated 16.03.2023 are bad in law, illegal, invalid, void-ab-initio on facts of the case, for want of jurisdiction and also barred by limitation and various other reasons and hence the same may kindly be quashed.*
- 1.2. *The Ld. CIT(A) has grossly erred in law as well as on the facts of the case in passing the Ex-parte order without providing the adequate and reasonable opportunity of being heard in gross breach of law, and also erred in law in passing the order without considering the material and details available on record, hence the order may kindly be quashed and entire addition liable to be deleted.*
2. *Rs. 1,30,44,505/-: The Ld. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the disallowance/ addition of Rs. 1,30,44,505/- u/s 43B made by the Ld. AO on wrong interpretation, when the same were coming in the audited accounts. Ld.AO and CIT(A) both have also erred in ignoring the evidences and material available on record and not considering the same in their true perspective and sense. Hence, the addition/disallowance so made by the AO and confirmed by the Ld.CIT(A) is being totally contrary to the provisions of law and facts on the record and hence same may kindly be deleted in full.*
3. *Rs.7,079/-: The Ld. CIT(A) has also grossly erred in law as well as on the facts of the case in confirming the action of the Ld. AO in giving the credit of TDS on Rs. 62,123/- only in place of Rs. 69,202/- i.e. Ld. AO has not given the credit of TDS of Rs. 7,079/-. He has also erred in ignoring the evidences and material and not considering in their perspective and sense. Hence, the credit of TDS so not given by the Ld. AO is being totally contrary to the provisions of law and facts on the record and hence the same may kindly be directed to give the full TDS credit.*
4. *The Ld. AO has grossly erred in law as well as on the facts of the case in charging interest u/s 234A, B and C. The appellant totally denies it liability of charging of any such interest. The interest, so charged, being contrary to the provisions of law and facts, may kindly be deleted in full.*



3. Briefly stated facts of the case are that the return of income for the relevant year was e-filed by the assessee declaring total income of Rs. 51,24,130/-. The CPC processed the return u/s 143(1) of the Act assessing the income at Rs. 1,81,68,640/-by making an addition of Rs. 1,30,44,505/-. Further, credit of TDS amounting to Rs. 7,079/- was also disallowed by CPC.

4. According to the appellate order, aggrieved by the said addition, the assessee filed an appeal on 14.08.2024 with a **delay of 487 days**. A condonation request alongwith an affidavit was submitted claiming that the there was delay of only 16 days from the date of physical receipt of the impugned order though admitting receipt of the same on his registered email. However, it was stated that due to inaction on part of the staff/Consultant delay occurred. It is noticed that the assessee did not make any compliance during appeal proceedings also. Accordingly, he failed to explain the delay in filing of the appeal stated to be of 487 days and also to defend the disallowances made by CPC which were agitated by him in the appeal. Consequently, considering these facts and materials on record, the Id.CIT(A) upheld the action of CPC and dismissed the appeal.



5. Before us, the ld.AR has relied upon the affidavit in respect of delay requesting for condonation of the same and remitting the issue to the ld.CIT(A). The ld.DR however, objected to such proposition.

6. On careful consideration of the submissions of the assessee and on perusal of the affidavit filed before the appellate authority, we are of the considered opinion that even though there is some element of casualness involved in the delay in filing of the appeal before the appellate authority which however, does not appear to be intentional but due to certain unavoidable reasons, mainly attributable to inaction on part of the dealing staff/Consultant. Rejection of the request for condonation would cause genuine hardship to the assessee. In this connection, reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in **Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC)** that *“ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or any application, other than an application under any of the provisions of [Order XXI of the Code of Civil Procedure, 1908](#), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient*



*cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs serious risk.”* Accordingly, in the interest of justice, we condone the delay.

6.1 We further observe that the Id.CIT(A) dismissed the appeal solely on the ground of delay and on merits as well due to non compliance of the assessee to the notices issued by him. He could not adjudicate the issues in correct perspective owing to lack of any response from the assessee. However, it is equally important that it is a fundamental duty of the assessee to diligently pursue the appeal and comply with the notices and proceedings initiated by the Revenue authorities. Moreover, the assessee’s contention of inaction on part of the Staff/CA cannot absolve him of his duty to follow up on its appeal. Failure of the assessee to take any initiative reflects negligence and indifference which is unacceptable, particularly when the appeal involves significant additions and disallowances. It is pertinent to note that the principles of natural justice operate both ways, while the revenue authorities are required to provide a reasonable opportunity of being heard, the taxpayer is equally obligated to co-operate with the authorities and utilize the opportunities extended. Taxpayers are



expected to act responsibly, especially when significant sums and complex issues are under dispute.

7. In light of the above, levy of cost would be fully justified. The cost serves as a necessary deterrent to ensure that taxpayers act with due diligence in pursuing the proceedings and adhering to the timelines and processes laid down under the law. It also emphasizes the principle that while justice must be ensured, the system cannot cater to indolence or negligence on the part of the assessee.

7.1 In view of the above, following the principles of natural justice and fair play, we set aside the order of the Id.CIT(A) and restore the matter to him. He is directed to make fresh adjudication of the grounds after providing a reasonable opportunity of being heard to the assessee who, in turn, would ensure due compliance.

8. Considering assessee's lack of diligence in pursuing the appeal and failure to take timely measures respecting timeline laid down in the Act, we impose a cost of Rs.20,000/- on the assessee. The cost shall be deposited to the credit of the Prime Minister's Relief Fund within 15 days of the receipt of this order and proof of payment shall be submitted before the Id.CIT(A).



9. In the result, the appeal of the **assessee is allowed for statistical purposes, subject to the levy of costs as specified above.**

Order pronounced in the open court on **21/11/2025**.

Sd/-

**[Justice (Retd. )C.V.BHADANG]**  
**PRESIDENT**

Sd/-

**[PRABHASH SHANKAR]**  
**ACCOUNTANT MEMBER**

Place: मुंबई/Mumbai  
दिनांक /Date 21.11.2025  
Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,

**उप/सहायक पंजीकार (Dy./Asstt. Registrar)**  
**आयकर अपीलीय अधिकरण/ ITAT, Bench,**  
**Mumbai.**

