

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 6556/MUM/2025
Assessment Year: 2017-18**

Kesaram Chataramaji
Coudhary,
Sai Park Society, Room No. 14,
2nd floor, Koperkhairne,
Thane-400709.
PAN NO. AMAPC 8918 K
Appellant

Vs.

ITO Ward 28(2)(1),
IT Office, Vashi Railway
Station,
Navi Mumbai-400703.

Respondent

Assessee by : Ms. Naina Chaurasia
Revenue by : Mr. Mahesh Parwani, Sr. DR

Date of Hearing : 10/12/2025
Date of pronouncement : 23/01/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 24.05.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2017-18, raising following grounds:



1. In the facts and circumstances of the case and in law A.O. erred in adding sum of Rs. 26,51,401/- as unexplained money income within the meaning of under section 69 A of Act.

2. Reasons recorded by A.O. for adding sum of Rs. 26,51,401/- as unexplained money income within the meaning of u/s 69A of Act, are wrong insufficient and contrary to the facts and evidence on record.

2. Briefly stated, the facts of the case are that the assessee, an individual, is engaged in the business of running a general store. For the assessment year under consideration, the assessee did not file any return of income. The Assessing Officer, on the basis of information available on the Income-tax Business Application (ITBA) module of the Income-tax Portal, noticed that cash had been deposited in the bank accounts of the assessee during the demonetisation period. Accordingly, the case was taken up for enquiry and a notice under section 142(1) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) was issued calling upon the assessee to explain the source of such cash deposits.

2.1 Subsequently, a notice requiring the assessee to file the return of income was also issued. However, the assessee failed to comply with the statutory notices. In the absence of any response, the Assessing Officer proposed to complete the assessment under section 144 of the Act. For the purpose of verification, the Assessing Officer obtained copies of the bank statements directly from Axis Bank Ltd. and Oriental Bank of Commerce by exercising powers under section 133(6) of the Act.



3. On examination of the bank statements, the Assessing Officer observed that cash aggregating to ₹26,51,401/- had been deposited in the bank accounts of the assessee during the relevant previous year. Out of this, a sum of ₹14,00,000/- was deposited during the demonetisation period, while the balance pertained to deposits made outside the demonetisation period, along with other credits. The Assessing Officer recorded the following details:

Account No.	Name of the Bank	Account Holder	Acctt. Type	Cash deposits (Rs.) from 01.04.2016 to 08.11.2016	Cash Deposits (Rs.) from 09.11.2016 to 31.12.2016	Total Cash During the Year (Rs.)	Other Credits (Rs.)	Total Credits (Rs.)
9090100336289	Axis Bank Ltd.	Kesaram Choudhary	SB	0	8,01,000	8,01,000	7,00,000	15,01,000
16191011001375 (reported as No. 1619101100137)	OBC	Ambika Dry fruits and Stationery General Store	CA	5,10,000	5,99,000	11,09,000	41,401	11,50,401
			Total	5,10,000	14,00,000	19,10,000	7,41,401	26,51,401

2.2 From the above table, it is gathered that the assessee has deposited cash of **Rs. 14,00,000/-** in bank account maintained with Axis Bank Ltd. and Oriental Bank of Commerce during the period of demonetization. Further, assessee has also deposited cash of **Rs. 5,10,000/-** other than the period of demonetisation in his accounts amounting and there are other credits to the tune of **Rs. 7,41,401/- (Total Credit- Rs. 26,51,401/-)**.

3.1 The Assessing Officer thereafter issued summons under section 131 of the Act and recorded the statement of the assessee. The Assessing Officer has noted in impugned assessment order that the assessee failed to furnish any documentary evidence to substantiate the source of the cash deposits. In the absence of any satisfactory explanation and supporting material, the Assessing



Officer completed the assessment under section 144 of the Act and treated the entire cash deposits of ₹26,51,401/- as unexplained, bringing the same to tax.

4. In appeal before the learned Commissioner of Income-tax (Appeals), the assessee again failed to comply with the notices issued. Consequently, the learned CIT(A) proceeded to dispose of the appeal ex parte and sustained the assessment.

5. Aggrieved by the ex parte order of the learned CIT(A), the assessee is now in appeal before the Tribunal, raising the grounds of appeal as reproduced hereinabove.

6. At the outset, the learned counsel for the assessee submitted that there is a delay of 448 days in filing the present appeal. It was pointed out that the impugned order of the learned Commissioner of Income-tax (Appeals) was passed on 24.05.2024 and, therefore, the appeal before the Tribunal was required to be filed within the statutory period of 60 days, i.e., on or before 23.07.2024. However, the appeal has been filed on 14.10.2025, resulting in a delay of 448 days.

6.1 The learned counsel drew our attention to the affidavit sworn by the assessee and submitted that the delay occurred primarily due to lack of access to the e-mail address registered on the Income-tax Portal, which belonged to the earlier tax consultant,



coupled with the medical condition of the assessee. It was submitted that the assessee has a strong case on merits, that there was no mala fide intention or deliberate negligence on his part, and that the delay was wholly unintentional. It was therefore prayed that, in the interest of substantial justice, the delay may be condoned.

6.2 We have heard the rival submissions on the issue of condonation of delay. The assessee has filed a detailed affidavit explaining the circumstances leading to the delay. The material contents of the affidavit, in substance, disclose that the assessee is an individual of limited means and education, who was not conversant with the procedural requirements under the Act. The affidavit further explains that the assessee's PAN was registered on the Income-tax Portal by a tax consultant, who, for the purpose of communication, had mentioned his own e-mail address and mobile numbers. Consequently, all electronic notices issued by the learned CIT(A) were served on the consultant and never came to the knowledge of the assessee. Due to non-filing of submissions, the appeal before the CIT(A) came to be dismissed ex parte.

6.3 The affidavit further reveals that the assessee became aware of the dismissal of his appeal only upon receipt of a recovery notice in August 2025. Thereafter, despite diligent efforts, the assessee could not trace the earlier consultant and was constrained to approach



another professional, who advised him to file the present appeal along with an application for condonation of delay. The affidavit also states that the assessee is suffering from a serious medical condition and is undergoing continuous treatment, which further contributed to the delay. It has been categorically asserted that the delay was neither intentional nor deliberate, but occurred due to circumstances beyond the assessee's control.

6.4 Having perused the sworn affidavit and considering the explanation offered therein, we are satisfied that the assessee was prevented by sufficient cause from filing the appeal within the prescribed period. It is well settled that the expression "sufficient cause" should receive a liberal construction so as to advance substantial justice, particularly when the delay is not attributable to any mala fide conduct or deliberate inaction. The explanation furnished by the assessee appears to be bona fide, plausible, and supported by circumstances on record.

6.5 In matters of condonation of delay, the courts and tribunals have consistently held that a litigant should not be thrown out of court on technical grounds when substantial justice demands adjudication on merits. In the present case, the delay has been adequately explained, and no prejudice is caused to the Revenue by condoning the same.



6.6 Accordingly, we condone the delay of 448 days in filing the appeal and admit the appeal for adjudication on merits.

7. Having carefully considered the submissions of the assessee and the orders of the lower authorities, we find that the learned Commissioner of Income-tax (Appeals) dismissed the appeal primarily on the ground of non-compliance by the assessee. The relevant observations of the learned CIT(A) are reproduced hereunder:

“4.1 The appeal was filed by the assessee on 21.11.2019 against order u/s 144 of the Act dated 01.10.2019 for the AY: 2017-18. In connection to the appeal, opportunities were provided to the appellant to substantiate his grounds of appeal on or before the following dates:

1) 19.01.2024

2) 14.05.2024

3) 22.05.2024

On verification of the ITBA portal, it is observed that all the notices got successfully delivered to email: taxvashi189@gmail.com & bhadras39@yahoo.com. Against all these notices, appellant is not interested in filing any details during the appellate proceedings and avail the opportunity under the principle of natural justice. In response to the notices issued, even adjournment was not sought. In such situation, the only conclusion which can be drawn is that the appellant is not interested in pursuing the appeal.

4.2 It has been held by the Hon'ble Supreme Court in the case of B.N.Bhattacharjee and another (118 ITR 461) that appeal does not mean merely filing of memo of appeal but also pursuing it effectively. In cases where the appellant does not want to pursue the appeal, appellate authorities have inherent power to dismiss the appeal for non- prosecution as held by the



Hon'ble Bombay High Court in the case of M/s Chemipol vs. Union of India in Excise Appeal No. 62 of 2009. While deciding the issue, the Hon'ble High Court of Bombay has referred to the observations of Hidayatullah, Chief Justice (as His Lordship then was) in Sunderlal Mannalal Vs. Nandramdas Dwarakadas AIR 1958 MP 260 wherein it was observed:

"Now the Act does not give any power of dismissal. But it is axiomatic that no court or tribunal is supposed to continue a proceeding before it when the party who has moved it has not appeared nor cared to remain present. The dismissal, therefore, is an inherent power which every tribunal possesses.

4.3 This appeal has been filed by the appellant with a prayer to this office that the additions made by the AO be deleted. In such situation, it is for the appellant to furnish submissions with relevant evidence(s), case laws, if any, to support the claim. The burden of proof is always on the person who has made the claim by filing the appeal. Further, if the appellant claims that the addition made should be deleted, the burden is on the appellant to prove it why it should be deleted. Same is the position in case of all allowances, deduction, exemptions, claims or loss etc. Since an appeal is nothing but the claim of the appellant that he has been unduly unjustifiably taxed or levied fee/interest, it is for the appellant to prove its case. The appellant has not availed any opportunity to do so.

From the conduct of the appellant as per the facts noted above, it is clear that the appellant does not wish to pursue the appeal. Even otherwise on the merits of it also, I do not see any reason to differ with the findings of the AO since no attempt has been made by the assessee to discharge its onus. Hence, respectfully following the above mentioned judicial pronouncements and in view of the facts of the case, the appeal is hereby dismissed."

7.1 Before us, the learned counsel for the assessee filed an application for admission of additional evidence under Rule 29 of the Income-tax Rules, 1963, and prayed that the following documents be taken on record:



Sr No.	Particulars	Page No.
1	<i>Copy of Notarised Gift Deed from father in law dated 27.01.2020 with respect to cash gift received Rs. 3,00,000/- on 20.05.2016</i>	1 - 4
2	<i>Copy of Notarised Gift Deed from father dated 27.01.2020 with respect to cash gift received totalling to Rs. 3,00,000/- on 27.07.2016</i>	5 - 7
3	<i>Copy of Notarised Gift Deed from father dated 27.01.2020 with respect to cash gift received totalling to Rs. 3,00,000/- on 05.09.2016</i>	8 - 10
4	<i>Copy of Land Record of father in law evidencing capacity of generating agriculture income</i>	11 - 12
5	<i>Copy of Land Record of father evidencing capacity of generating agriculture income</i>	13
6	<i>Copy of Axis Bank statements for the FY 2016-17</i>	14 - 16
7	<i>Copy of Oriental Bank statement for the FY 2016-17</i>	17 - 18
8	<i>Medical documents in support of illness 'Acquired Immunodeficiency Syndrome' (AIDS) suffered by the Assessee</i>	19 - 27

7.2 Upon due consideration, we find that the additional evidence sought to be produced by the assessee directly goes to the root of the controversy, namely, the explanation of the source of cash deposits in the bank accounts. The assessee has explained that these documents could not be produced earlier due to circumstances beyond his control, including lack of proper communication and serious medical condition. In the interest of substantial justice, and in order to ensure that the matter is decided on merits rather than on technicalities, we deem it appropriate to admit the additional evidence.

7.3 Accordingly, the impugned order of the learned CIT(A) is set aside, and the matter is restored to the file of the Assessing Officer, who shall examine the additional evidence, afford reasonable opportunity of being heard to the assessee, and decide the issue afresh in accordance with law.



7.4 The grounds raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 23/01/2026.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 23/01/2026
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai