

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

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER

ITA No.4780/MUM/2025
(A.Y. 2011-12)

Laxmi Kashinath Thanekar, Hule House, Anand Bharati Road, Chendani Kolivada, Thane(East), Thane- 400603, Maharashtra	v/s. बनाम	Commissioner of Income Tax (Appeal), Ashar IT Park, Nehru Nagar, Wagle Estate, Thane West, Thane - 400604, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ACPPT6201P		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	None
Respondent by :	Shri Surendra Mohan, (Sr. DR)

Date of Hearing	10.12.2025
Date of Pronouncement	19.01.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 23.02.2024 is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to assessment order passed u/s. 143(3) r.w.s. 147 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 24.12.2018 for the Assessment Year [A.Y.] 2011-12.



2. The grounds of appeal are as under:

1. *The Ld Assessing Officer erred to consider long term capital gain on sale of immovable Property in Current Assessment year i.e. Assessment year 2011-12.*
2. *The Ld Assessing Officer erred to consider Income from other sources on compensation received in Assessment Year (2011-12) for land acquisition against the part of land acquired by Govt. of Maharashtra.*
3. *The Ld. Assessing Officer ignored the valuation report submitted from Chartered Engineer Registered Valuer for the fair market value as on 01/04/1981 without any valid reason and substituted the fair market value arbitrarily without referring to DVO.*
4. *The Ld. Assessing Officer wrongly applied the provisions of sec 50C of the Act for alleged sale of property in Asst Year 2011-12 and it is bad in law.*
5. *The Ld. assessing officer passed the order without establishing the nexus between Shreenath Builders and Buildcube Constructions Pvt. Ltd. against order of the Mumbai High Court.*
6. *The Ld. assessing officer erroneously charged interest u/s 234B relating to Asst. Year 2011-12*

3. Briefly stated facts of the case are that the assessee is an individual who filed return declaring total income of Rs. 4,10,584/-. In this case, based on certain information regarding sale of immovable property, notice u/s 148 of the Act was issued and also a detailed show cause and final opportunity. Subsequently, the AO passed assessment order u/s 143(3) r.w.s. 147 of the Act by determining total income of Rs. 78,23,540/-. In the appeal, the assessee did not comply to various notices issued to him from time time by the ld.CIT(A) who finally decided the



appeal on the basis of the facts and circumstances of the case and by taking into consideration all materials available on record and upheld the additions.

4. At the outset, it is noticed that the instant appeal is delayed by 63 days. It may be stated here that during hearing before the none attended. In this regard, an application for condonation of the delay alongwith an affidavit filed by the assessee are on record according to which the delay occurred due to serious medical issues that he was suffering from during the relevant period. He was under continuous treatment and was advised bed rest by the doctor, which made it impossible to attend to any official or financial matters. Copy of relevant doctor's certificates to substantiate the genuineness of the reason for the delay was also enclosed. It is submitted that the delay is neither intentional nor deliberate, but purely due to circumstances beyond his control which may be condoned and admit the appeal in the interest of justice and equity.

5. On careful consideration of the submissions of the assessee, we are of the considered opinion that the delay in filing of the appeal was not intentional. 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.” We therefore, condone the delay.

6. Although we find that the Id.CIT(A) has taken into consideration the material facts on record before upholding the additions made by the AO, the fact remains that the assessee was not heard. Therefore, substantive adjudication of the issues could not be done by him without opportunity of hearing to the assessee. In the grounds of appeal, we find that the assessee has raised various grounds of appeal challenging the impugned addition. In our view, the assessee should be accorded one more final opportunity in this regard to represent his case, following the principles of natural justice.



7. In the light of above observations and in the substantial interest of justice, we set aside the appellate order and restore the entire matter back to the Id.CIT(A) for passing the appellate order *de novo*. In case of any failure on the part of the assessee, he would be at liberty to pass order after considering the materials on record. The assessee will not seek any adjournment on frivolous ground and remain cooperative during the course of proceedings before the Id.CIT(A).

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

Order pronounced in the open court on 19/01/2026.

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 19.01.2026

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



ITA No. 4780/Mum/2025
A.Y. 2011-12

Laxmi Kashinath Thanekar, 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.

