

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**  
**BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)**

**ITA No.7231/Mum/2025**  
**Assessment Year: 2012-13**

<b>ANIS Abdulkadar Nakhawaji</b> A/904, Shiv Shankar Apartment, Sector 34-35, Plot No. 34-36, Kamothe, Mansarovar 410206 <b>PAN:AFNPN5888B</b> <b>(Appellant)</b>	Vs.	<b>ITO Ward 41(1)(1), Mumbai</b> Room No. 830, Kautilya Bhavan, Bandra Kurla Complex, Mumbai 400051 <b>(Respondent)</b>
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<b>Appellant by</b>	Shri Aditya Ramachandran (virtually present)
<b>Respondent by</b>	Shri Vikas Chandra SR. DR

<b>Date of Hearing</b>	14/01/2026
<b>Date of Pronouncement</b>	28/01/2026

**ORDER**

**Per: Smt. Beena Pillai, J.M.:**

Present appeal arises out of order dated 26.04.2025 passed by Ld. CIT(A)-5, Delhi for AY 2012-13 on following grounds of appeal:

*“1. On the facts and circumstances of the case and in law, the delay in filing the appeal before Your Honours may please be condoned and the appeal of the appellant may please be restored back with the direction to the CIT (A) to adjudicate the grounds of appeal on merits.*

*2. On the facts and circumstances of the case and in law, the Ld. CIT(A)/NFAC erred in confirmation the addition of Rs 10,22,300 under*

*section 69A of the Act representing cash deposits in the bank account of the appellant.”*

**Brief facts of the case are as under:**

**2.** An information was received by the Ld. AO that assessee deposited cash to the tune of Rs. 10,22,300/- in his bank account apart from the salary income of Rs. 9,74,752/-. Accordingly, proceedings u/s. 147 was initiated and notice u/s. 148 of the Act was issued to the assessee on 30.03.2019. It is noted that there was no response from the assessee except for that fact the assessee filed its return of income declaring total income at Rs. 4,14,180/-. The notices issued u/s. 143(2) and 142(1) show causing assessee to comply with the question was never answered by the assessee.

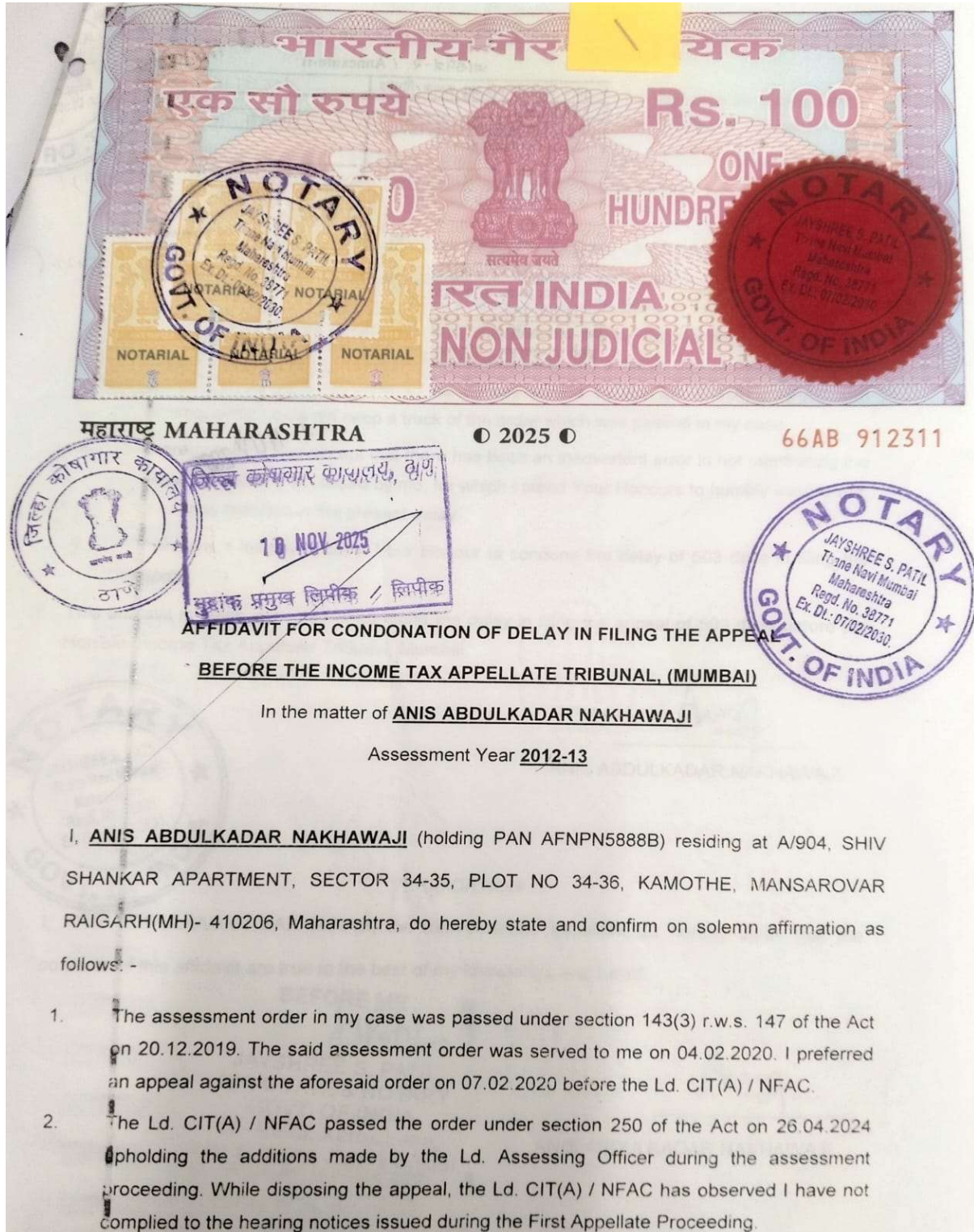
**2.1.** Ld. AO thus, added the cash deposited in the bank account of Rs. 10,22,300/- in the hands of the assessee.

Aggrieved by the order of the Ld. AO assessee preferred an appeal before the Ld. CIT(A).

**3.** The Ld. CIT(A) during the appellate proceedings issued multiple notices however, there was no response from the assessee. The Ld. CIT(A) thus, dismissed the appeal filed by the assessee for non-prosecution.

Aggrieved by the order of the Ld. CIT(A) assessee is in appeal before this *Tribunal*.

4. The Ld. AR submitted that, there is delay of 503 days in filing the present appeal before this Tribunal. He placed reliance on the affidavit filed by the assessee which states as under:





- Aggrieved by the order of the Ld. CIT(A) / NFAC, I am now preferring an appeal before Your Honours. It is submitted that there is a delay of 503 days in filing the appeal.
4. It is submitted before Your Honour that I have been employed in Saudi Arabia since 2012 with Kanoo Terminals and therefore my residential status has been non-resident all these years.
  5. I hereby submit that, while filing the appeal before the Ld. CIT(A) / NFAC the e-mail provided was anisraj786555@gmail.com. However, I respectfully submit that the said e-mail was being accessed by me very seldom, since, while being in Saudi Arabia I used to regularly access my official e-mail id provided to me by the company where I was employed i.e. anis.nakhawaji@kanooterminals.com. As a result, due to oversight I could not make timely compliance to the notices issued by the Ld. CIT(A) / NFAC and consequently, could not keep a track of the order which was passed in my case.
  6. I hereby submit and accept that there has been an inadvertent error in not mentioning the e-mail id regularly accessed by me, for which I plead Your Honours to humbly excuse me, which has resulted in the present delay.
  7. Therefore, I humbly request Your Honour to condone the delay of 503 days in filing the appeal.

This affidavit is being executed to condone the delay in filing the appeal of 503 days before the Hon'ble Income Tax Appellate Tribunal, Mumbai.

ANIS ABDULKADAR NAKHAWAJI



VERIFICATION

I, ANIS ABDULKADAR NAKHAWAJI, the above-named appellant do hereby verify that the contents of this affidavit are true to the best of my knowledge and belief.

BEFORE ME

JAYSHREE S. PATIL  
ADVOCATE & NOTARY  
GOVT. OF INDIA  
SS-4/273, Xerox Lane,  
Sec-2, Vashi, Navi Mumbai.  
This document is noted and  
Registered at Sr. No. 710  
Page No. 76 Reg. Book No. 3  
dated on 18 NOV 2025

Dated -

ANIS ABDULKADAR NAKHAWAJI

**4.1.** The Ld. AR submitted that assessee provided e-mail id which was not very often accessed by him and, therefore, the notices issued by the Ld. CIT(A) went unnoticed. The Ld. AR submitted that, it was in these circumstances that the impugned order passed by Ld. CIT(A) also went unnoticed, thereby causing the delay. He submitted that there is good case on merits of the issue and thus, prayed for the delay to be condoned and appeal may be heard on merit.

**4.2.** On the contrary, the Ld. DR, vehemently, objected to the condonation of delay as the assessee is a persistent defaulter.

We have perused the submissions advance by both sides in the light of record placed before us.

**5.** From the affidavit reproduced here in above filed by the assessee, it is noted that, assessee provided e-mail id which is not regularly accessed by him. However, it cannot be ignored that SMS is always sent to the assessee whenever there is an intimation or a notice issued as an alternative mode of communication. Assessee being educated and employed in Saudi Arabia since 2012, was responsible to the follow ups regarding the proceedings filed before the Ld. CIT(A) from time to time. We therefore, did not agree that assessee was absolutely unaware above the notices issued on the impugned order having passed.

**5.1.** However, considering the fact that justice has to be rendered the issue on merits needs to be decided. In the interest

of justice,we remit this appeal to the Ld. CIT(A) subject to payment of cost of Rs. 10,000/- being paid to the Legal aid cell of Hon'ble Bombay High Court. Assessee is directed to file affidavit of cost having deposited with the office of Ld. CIT(A) as a consequence of which notice will be issued to the assessee.

**5.2.** Ld. CIT(A) thereafter, is directed to considered the issue on merits. In accordance with law. Needless to say that, proper opportunity of being heard must be granted to assessee.

**6. Accordingly, the grounds raised by the assessee stands partly allowed for statistical purposes.**

**In the result, appeal filed by the assessee stands partly allowed for statistical purposes.**

**Order pronounced in the open court on 28/01/2026**

**Sd/-**

**(BEENA PILLAI)  
Judicial Member**

Mumbai:  
Dated: 28/01/2026  
Divya Ramesh Nandgaonkar,  
Stenographer

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

By order

(Asstt. Registrar)  
**ITAT, Mumbai**