

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1853/PUN/2024
निर्धारण वर्ष / Assessment Year : 2016-17

Laxmikant Toshniwal, Nandkishor Toshniwal, Deva Niwas, Bhagya Nagar, Nandi Stop, Latur- 413512. PAN : AGPPT1081M	Nandkishor	Vs.	ITO, Ward-1, Latur.
Appellant			Respondent

Assessee by : Shri Shubham N. Rathi (Virtual)
Revenue by : Shri Amol Khairnar

Date of hearing : 05.01.2026
Date of pronouncement : 30.01.2026

आदेश / ORDER

PER VINAY BHAMORE, JM:

This appeal filed by the assessee is directed against the order dated 11.07.2024 passed by Ld. CIT(A)/NFAC for the assessment year 2016-17.

2. The appellant has raised the following grounds of appeal :-

"1. NON-ACCEPTANCE OF CONDONATION OF DELAY

1.1 The Learned Commissioner of Income Tax(Appeals) [the Ld. CIT(A)] has erred in not condoning the delay in filing of the appeal without properly considering the cause for delay.

- 1.2. *On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in not deciding the issue on merits.*
- 1.3 *The appellant prays that the delay before the CIT(A) be condoned and appeal should be taken up for the hearing.*

WITHOUT PREJUDICE TO ABOVE

2. THE CHALLENGE TO REASSESSMENT

- 2.1 *The Learned Income Tax Officer, Ward 1, Latur [the Ld. JAO] has erred in initiating the reassessment proceedings u/s 147 of the Act.*
- 2.2 *On the facts and in the circumstances of the case, the Ld. JAO has initiated the reassessment proceedings without fulfilling the preconditions required to initiate the reassessment proceedings.*
- 2.3 *On the facts and in circumstances of the case, the Ld. JAO initiated and passed the assessment order without application of mind to the facts of the case.*
- 2.4 *In the above circumstances, facts and in law, the Appellants submits that his case is fit not for initiation of reassessment proceedings. Therefore, the consequential assessment order passed is illegal and deserves to be quashed.*

WITHOUT PREJUDICE TO ABOVE

ON MERITS

3. ADDITION OF CASH DEPOSIT OF ₹ 10,53,000/- U/S 68 OF THE ACT

- 3.1 *The Assessment Unit, National Faceless Assessment Centre [the Ld. AO] has erred in in making addition of 10,53,000/- u/s 68 of the Act.*
- 3.2 *On the facts and in circumstances of case, the Ld. AO made the addition mechanically, without applying his mind to the facts.*
- 3.3 *On the facts and in law in the present case no provisions of section 68 of the Act are attracted.*
- 3.4 *In the above facts and circumstances and in law, the addition u/s 68 of the Act is not warranted and deserves to be deleted.*

4. ADDITION OF ₹ 38,59,45,371/- U/S 68 OF THE ACT

- 4.1 *The Ld. AO has erred in making the addition of 38,59,45,371/- u/s 68 of the Act, without even mentioning anything about the suspicious transaction and mechanically without even verifying the facts involved in the present case.*
- 4.2 *On the facts and in the circumstances of the case, the Ld. AO made the addition mechanically, without applying his mind.*

4.3 *On the facts and in law in the present case no provisions of section 68 of the Act are attracted.*

4.4 *In the above facts and circumstances and in law, the addition u/s 68 of the Act is not at all warranted and deserves to be deleted.*

5. *LIBERTY*

The Appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”

3. Facts of the case, in brief, are that the assessee is an individual and has furnished his return of income on 11.02.2017 declaring an income of Rs.3,51,660/-. On the basis of information that the assessee has made suspicious transactions amounting to Rs.38,45,40,711/- which was not reported by him in his return of income, proceedings u/s 147 of the IT Act were initiated and notice u/s 148 of the IT Act was issued on 31.03.2021. Subsequently, notices u/s 142(1) were issued to the assessee but the assessee did not respond and the Assessing Officer completed the assessment u/s 147 r.w.s. 144 r.w.s. 144B of the IT Act and determined total income at Rs.38,59,45,371/- as against income returned by the assessee at Rs.3,51,660/-. The above assessed income includes additions u/s 68 of Rs.10,53,000/- and Rs.38,45,40,711/- respectively.

4. Being aggrieved with the above assessment order, the assessee preferred an appeal before Ld. CIT(A)/NFAC. Since the appeal was furnished belatedly i.e. with a delay of 511 days, Ld. CIT(A)/NFAC dismissed it without going into merits of the case.

5. It is the above order against which the assessee is in appeal before this Tribunal.

6. We have heard Ld. Counsels from both the sides and perused the material available on record including the case laws furnished by the assessee. In this regard, we find that the assessee has raised various grounds, however his sole prayer is to direct Ld. CIT(A)/NFAC to condone the delay and decide the appeal on merits of the case. Ld. DR has not raised any objection to the above request of the assessee.

7. In this regard, we find that admittedly the appeal before Ld. CIT(A)/NFAC was filed with a delay of 511 days. The assessee filed before Ld. CIT(A)/NFAC an application for condonation of delay duly supported by an affidavit stating that the delay was caused by the office staff of the counsel of the assessee. In this regard, an affidavit duly sworn in by Shri Akshya Tarachand Dhoot, the Chartered Accountant of the assessee, was also filed

before Ld. CIT(A)/NFAC wherein the Chartered Accountant accepted the mistake committed by his office staff. However, not being satisfied with above reason, Ld. CIT(A)/NFAC dismissed the appeal filed by the assessee without going into merits of the case. Before us, it was submitted by Ld. Counsel of the assessee that the business of assessee was closed from assessment year 2018-19 and thereafter the assessee is not engaged in any business activity.

8. Considering the totality of the facts of the case and in the interest of justice and without going into merits of the case, we deem it appropriate to set-aside the order passed by Ld. CIT(A)/NFAC and remand the matter back to his file with a direction to condone the delay and decide the appeal on merit and as per fact and law after providing reasonable opportunity of hearing to the assessee. The assessee is also hereby directed to respond to the notices issued by Ld. CIT(A)/NFAC in this regard and to produce relevant documents/submissions/evidences in support of all the grounds of appeal raised before us without taking any adjournment under any pretext, otherwise Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. Thus, the

grounds of appeal raised by the assessee are allowed for statistical purposes.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 30th day of January, 2026.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 30th January, 2026.

Sujeet

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.