

IN THE INCOME TAX APPELLATE TRIBUNAL

"H (SMC)" BENCH, MUMBAI

BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

SHRI BIJAYANANDA PRUETH, ACCOUNTANT MEMBER

ITA No.8496/MUM/2025
(Assessment Year: 2016-17)

SanjayKumar Mahadeo Patil,

Flat No.502, A Wing, Shivparvati CHS Ltd.,
RSA 54, MHADA Layout, Mahavir Nagar,
Kandivali (W),
Mumbai – 400067
PAN: ADLPP0237C

..... Appellant

v/s

Income Tax Officer, Ward - 42(3)(3),

Kautilya Bhavan, G-Block,
Bandra Kurla Complex,
Mumbai – 400051

..... Respondent

Assessee by : Ms. Krupa Shah, Adv. (virtually appeared)

Revenue by : Shri Pravin Salunkhe, Sr.DR

Date of Hearing – 29/01/2026

Date of Order - 30/01/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 18/02/2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, [*"learned CIT(A)"*], for the assessment year 2016-17.

2. The present appeal is delayed by 224 days. Along with the appeal, the assessee has filed an application seeking condonation of delay, which is duly supported by an affidavit, submitting as follows: –

"1. The Petitioner has received the impugned order passed by the CIT (A), NFAC, Delhi, u/s 250 of the Income Tax Act, 1961 on 18th February, 2025 on the same day and hence he was required to file the appeal before the Hon'ble Tribunal within two months from the end of the month in which the order sought to be appealed against is communicated to the Petitioner, i.e. on or before 30th April, 2025 as per Section 253(3) of the Income Tax Act, 1961. However, the appeal before the Hon'ble Tribunal is being filed on 10th December, 2025 and as such there has been a delay of 224 days in filing the present appeal before the Hon'ble Tribunal.

2. The Petitioner has been working with Punjab & Sindh Bank (A Nationalised Bank) for almost more than 30 years and is presently working as Officer at Branch Himmatnagar, Gujarat.

3. The Petitioner states that he is not in a habit of checking his mails regularly due to his fulltime employment, hence he had missed checking the CIT (A)'s order received from Income Tax Department in his mailbox due to inadvertence and oversight as he receives dozens of emails every day. Thereafter, unfortunately this email of CIT (A)'s order dated 18th February, 2025 got buried under hundreds of emails received. With the passage of time, since the emails received on a daily basis were mounting, this email containing the CIT (A)'s order got completely overlooked by the petitioner for a long time. On 18th November, 2025 when the Petitioner logged in his income tax portal, suddenly he came to know that for Assessment Year 2016 - 17, the CIT (A)'s order was passed on 18th February, 2025 which was missed out to check in his mailbox due to oversight.

4. On becoming aware of the same, the Petitioner instructed his Chartered Accountants immediately to appoint income tax counsels for preparation of appeal to be filed before Hon'ble Income Tax Appellate Tribunal, Mumbai against the said CIT (A)'s order. The relevant papers were submitted to income tax counsels for preparation of appeal on or around 24th November, 2025. Thereafter, Income Tax Counsels prepared Form No. 36, Grounds of Appeal and Petition for Condonation of Delay with supporting Affidavit and sent the same for signature to the Petitioner's Chartered Accountants on or around end of November, 2025 and then after signing the appeal papers, the appeal was filed on 10th December, 2025 before the Hon'ble Income Tax Appellate Tribunal, Mumbai after a delay of 224 days. Admittedly, there was some negligence, though non-deliberate on the part of the Petitioner because of which this delay in filing the appeal has occurred."

3. We find that the reasons stated by the assessee for seeking condonation of delay fall within the parameters for grant of condonation

laid down by the Hon'ble Supreme Court in the case of Collector Land Acquisition, Anantnag v/s MST Katiji and others: 1987 SCR (2) 387. It is well established that rules of procedure are handmaid of justice. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. In the present case, the assessee did not stand to benefit from the late filing of the appeal. In view of the above and having perused the application filed by the assessee, we are of the considered view that there exists sufficient cause for not filing the present appeal within the limitation period and therefore, we condone the delay in filing the appeal by the assessee and proceed to decide the same.

4. In this appeal, the assessee has raised the following grounds: -

"1. The Ld. CIT (A), NFAC, Delhi erred in law and on facts in dismissing the appeal of the Appellant, without deciding the matter on merits and without passing a reasoned, speaking order, thereby violating the principles of natural justice.

2. On account of dismissal of the appeal by the Ld. CIT (A), NFAC, Delhi, he indirectly erred in upholding the additions made by the Ld. AO, NFAC, Delhi, aggregating to Rs. 4,07,224/- as unexplained investment under section 69 of the I.T. Act in relation to purchase of a new property and raising a total tax demand of Rs. 3,66,138/-.

3. On account of dismissal of the appeal by the Ld. CIT (A), NFAC, Delhi, he indirectly erred in upholding the action of the Ld. AO, NFAC, Delhi in ignoring the fact that the Appellant purchased a new property amounting to Rs. 55,78,000/- which was financed partly out of loan amounting to Rs. 44,58,000/- and partly out of own funds amounting to Rs. 11,20,000/- raised by the Appellant from various sources, including a sum of Rs. 4,07,224/- in respect of which addition has been made was from explained sources the evidences in support thereof are not in doubt and will be filed before the Hon'ble Tribunal.

4. On account of dismissal of the appeal by the Ld. CIT (A), NFAC, Delhi, he indirectly erred in upholding the action of the Ld. AO, NFAC, Delhi in levying interest u/s 234A and 234B aggregating to Rs. 2,46,078/-.

The appellant prays that reliefs on the aforesaid grounds be allowed and the Appellate Order of Ld. CIT(A) be modified accordingly."

5. We have considered the submissions of both sides and perused the material available on record. In the present case, at the outset, it is evident that the learned CIT(A) has passed the order ex parte due to the non-appearance of/on behalf of the assessee. Now, in the appeal before us, the assessee is duly represented by the learned AR and wishes to pursue the litigation against the addition made by the AO. We further find that the learned CIT(A) merely on the basis of non-compliance with notices, dismissed the appeal filed by the assessee without adjudicating the grounds raised by the assessee on merits, as required under section 250(6) of the Act. In CIT v/s Premkumar Arjundas Luthra (HUF), reported in [2016] 69 taxmann.com 407 (Bombay), the Hon'ble Jurisdictional High Court held that the Commissioner (Appeals) cannot dismiss the appeal on account of non-prosecution of the appeal by the assessee. Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits. We further direct that no order shall be passed without affording reasonable opportunity of hearing to the parties. The assessee is directed to appear before the learned CIT(A) on all the hearing dates as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at

this stage. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 30/01/2026

**Sd/-
BIJAYANANDA PRUETH
ACCOUNTANT MEMBER**

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 30/01/2026

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai.