

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1666/PUN/2025
निर्धारण वर्ष / Assessment Year : 2013-14

Vijaymala Vilas Kalokhe, Aditya Row House, Lane No. 2, Opp. Patel Garden, Sr. No. 8/2a, Juni Sangavi, Maharashtra-411027 PAN : ASEPK8161G	Vs.	ITO, Ward-10(1), Pune
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Kishor B Phadke
Department by :	Shri Amit Bobde
Date of hearing :	28-01-2026
Date of Pronouncement :	30-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 17.06.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**"CIT(A)/NFAC"**] pertaining to Assessment Year (**"AY"**) 2013-14.

2. Briefly stated the facts are that the assessee is an individual. He filed his return of income for AY 2013-14 declaring total income of Rs.2,21,050/-. The case of the assessee was reopened u/s 147 of the Income Tax Act, 1961 (**the "Act"**) after following the mandate procedure as laid down under the relevant provisions of the Act. Accordingly, statutory notice u/s 142(1) of the Act and show cause letter(s) were issued to the assessee from time to time. However, the assessee failed to file any response to the said notice(s) which constrained the Ld. Assessing Officer (**"AO"**) to pass an ex-parte order u/s 144 of the Act based on the material available on record. The Ld. AO proceeded to complete the assessment on total income of Rs.2,66,70,989/-u/s 147 r.w.s. 144 of the Act thereby making an addition of Rs.2,63,83,209/- on account of undisclosed Long Term Capital Gain (LTCG) by observing as under :

"5.1. On-going through the information available on record and in view of the order passed u/s 148A(d) of the Act dated 21.07.2022, it is noticed that

assessee alongwith other co-owners has entered in sale agreement in respect of immovable property for a sale consideration of Rs. 14,05,00,000/- against its market value of Rs 37.05.50.700/- There is difference of Rs. 23,00,50,700/- in market value and stamp duty valuation. The provisions of section 50C were applicable in this case. As per agreement, you have received Rs. 1,00,00,000/- against the sale consideration of Rs. 14,05,00,000/-, assessee's share works out to be Rs. 7.12% in the above stated transaction. Accordingly, assessee share in the sale consideration of Rs. 37,05,50,700/- as per section 50C works out to be Rs. 2,63,83,209/- in the above transaction, Assessee has not offered any Capital Gain on Rs. 2,63,83,209/- in her return of income filed for A.Y. 2013-14. Further, the assessee has also not brought on record whether he/she has fulfilled the conditions as laid down u/s 2(14)(iii)(a) or (b). The land in question is a capital asset within the meaning of section 2(14) of the I. T. Act. In the absence of any supporting documents along with plausible explanation, the entire amount of Rs. 2,63,83,209/- is brought to tax under the head LTCG without providing the benefit of indexed cost of acquisition due to non-compliance on the part of the assessee.”

3. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC. The appeal was filed with a delay of 136 days. The Ld. CIT(A)/NFAC dismissed the appeal of the assessee on account of delay in filing the appeal holding that the reasons cited by the assessee for delay in filing the appeal do not constitute 'sufficient cause' for not presenting the appeal within the specified period and that the assessee has failed to furnish any documentary evidence in supporting the reasons given for delay in filing the appeal.

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal :

- “1. *The learned CIT(A), NAFC erred in law and on facts in upholding the addition of Rs. 2,63,83,209/- as alleged undisclosed LTCG, thereby assessing the total income of Rs. 2,66,70,989 to the returned income of Rs. 2,87,780/-.*
2. *Appellant contends that, notice u/s 148 of ITA, 1961 dated 21/07/2022 issued without following mandatory procedure laid down in 148A proceedings and without following law laid down by Rajiv Bansal (2024) 167 taxmann.com 70 (SC) (03-10-2024). As such the appellant contends that the present re-assessment proceedings are bad in law and ought to be quashed.*
3. *The learned AD and CIT(A), NAFC failed to appreciate the fact that assessment proceedings cannot be initiated u/s 148A beyond a period of 6 years even in case where the income likely to have escaped assessment is more than Rs 50,00,000/- taking into consideration the provisions of 1st proviso to section 149(1)(b) of the ITA, 1961. As such the appellant contends that, the present re-assessment proceedings are bad in law and ought to be quashed.*
4. *Learned CIT(A)-NFAC erred in law and in rejecting appellant's appeal, on account of the delay of 136 days in filing the appeal memo. Learned AO ought to have condoned the genuine delay of 136 days*

caused as the appellant was completely unaware of the present proceeding, and the present situation is simply a fall-out of a communication gap.

5. *The learned AO and CIT(A), NAFC erred in law in issuing an order u/s 147 r.w.s 144 r.wis 1448 of the ITA, 1961 dated 25/05/2023 without bearing a Document Identification Number" (DIN) on notice u/s 148 dated 21/07/2022 despite the circular no. 19/2019 dated 14th August 2019 which made it mandatory for all Income Tax Authorities to allot "DIN" for communications relating to assessments, appeals, orders etc. from 1st October 2019. As such, the order passed by the learned AO is invalid by the reason of non-allotment of "DIN"*
6. *The learned jurisdictional AO (JAO) and CIT(A), NAFC erred in law and on facts in assuming jurisdiction by issuing notice u/s 148 of the ITA, 1961 as the same is not in accordance with provisions of section 151A of ITA, 1961. Appellant contends that, as per CBDT Notification issued under section 151A of ITA, 1961, notice u/s 148 of ITA, 1961 ought to have been issued by National Faceless Assessment Center (NFAC) and not by JAO and the same has also been upheld in the recent pronouncement in case of Hexaware Technologies Limited v/s ACIT (Bombay HC-162 taxmann.com 225). As such, the appellant contends that the present reassessment proceedings are bad in law and ought to be quashed.*
7. *The learned AO and CIT(A), NaFAC erred in law and on facts in applying provisions of section 50C to the facts of the present case without appreciating that, there exist serious doubts about ownership of the land. Learned AO and CIT(A) ought to have appreciated that, serious disputes exist w.r.t. real ownership of the property and moreover, the name of the appellant (and names of appellant's family members) were removed from the land records, and that, the transactions w.r.t. the said land is put on hold as per Government orders.*
8. *Appellant contends that the learned AO and CIT(A) ought to have referred the matter to the District Valuation Officer (DVO) as per the mandate of section 50C of ITA, 1961 in computing the sale consideration as Rs 2,66,70,989/-.*
9. *Appellant contends that the learned AO and CIT(A) erred in law and on facts by not granting the cost of acquisition while calculating LTCG on the said property.*
10. *Appellant contends that if at all the addition is to be sustained, the same ought to have been restricted to Rs 1,23,51,690 only, considering the pro-rata share of each family, and, pro-rata share of each member therein.*
11. *Appellant craves leave to add/modify/amend/delete all / any of the above grounds of appeal."*

5. The Ld. AR submitted that the delay in filing of the appeal before the Ld. CIT(A)/NFAC was not intentional and the assessee had a reasonable/sufficient cause for not being able to file the appeal within statutory prescribed time limit which were duly submitted before the Ld. CIT(A)/NFAC. He submitted that the assessee belongs to lower strata in the society and is unaware of the procedural requirements under the Tax

Laws. He submitted that the assessee has a strong case on merits and prayed that in the interest of justice, the assessee may be given an opportunity to present and substantiate its case before the Ld. CIT(A)/NFAC. He, therefore, requested that the Ld. CIT(A)/NFAC may be directed to condone the delay and adjudicate the issue afresh on merits after allowing an opportunity of hearing to the assessee.

6. The Ld. DR had no objection to the above proposition of the Ld. AR.

7. We have heard the Ld. Representatives of the parties and perused the material available on record. Admittedly, there was non-compliance to the notices issued by the Ld. AO as well as the Ld. CIT(A)/NFAC resulting into an ex-parte order qua the assessee by them. We find that the Ld. CIT(A)/NFAC has dismissed the appeal of the assessee on account of non-condonation of delay of 136 days in filing of the appeal by the assessee for the reason that such delay in its opinion do not constitute a sufficient cause for condoning the delay. Before us, the Ld. AR submitted that the delay in filing of the appeal was not intentional but resulted due to the reasons cited above. It is the submission that the assessee has a strong case on merits and therefore in the interest of justice, the Ld. CIT(A)/NFAC may be directed to condone the delay in filing of the appeal and decide the issue afresh on merits of the case.

8. We find the Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji & Ors.* reported in 167 ITR 471 (SC) has held that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

9. We find recently the Hon'ble Supreme Court in the case of *Inder Singh Vs. The State of Madhya Pradesh* reported in 2025 LiveLaw (SC) 339 has held as under:

"14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation."

10. In the light of the decision(s) of the Hon'ble Supreme Court (supra), we hereby to set aside the impugned order of the Ld. CIT(A)/NFAC and restore the matter back to his file with a direction to condone the delay in filing the appeal before him by the assessee and decide the appeal on merits as per fact and law after giving due opportunity of being heard to the parties. Needless to say, the assessee shall comply with the notices issued by the Ld. CIT(A)/NFAC and make his submissions before him on the appointed date without seeking any adjournment under any pretext, unless required for the sufficient cause, failing which the Ld. CIT(A)/NFAC shall be at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 30th January, 2026.

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

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

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

रवि

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, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार / Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune