

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.2908/PUN/2025
निर्धारण वर्ष / Assessment Year : 2016-17

Tushar Vasantao Ahire, 14, Harisansar Pumping Station, Gangapur Road, Nashik-422013 PAN : BCQPA1411E	Vs.	ITO, Ward-1(1), Nashik
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Ronak H. Jain
Department by :	Shri Manish Mehta
Date of hearing :	21-01-2026
Date of Pronouncement :	30-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 30.09.2025 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi ["CIT(A)/NFAC"] pertaining to Assessment Year ("AY") 2016-17.

2. Briefly stated the facts are that the assessee is an individual and had not filed his return of income for AY 2016-17. Based on the information available with the Department, it was found that the assessee had purchased immovable property for a consideration of Rs.68,13,250/- in FY 2015-16 relevant to the AY 2016-17. However, it was not declared in the return of income filed by the assessee. The case of the assessee was thus reopened u/s 147 of the Income Tax Act, 1961 (the "Act") with the prior approval of the specified authority forming the reasons to believe that there was escapement of income to the extent of Rs.68,13,250/-. Accordingly, notice u/s 148 of the Act was issued to the assessee on 15.03.2023, in response to which the assessee failed to file his return of income. Subsequently, notice u/s 142(1) of the along with questionnaire was issued and served upon the assessee on 27.10.2023 which also remained un-complied with. The Ld. Assessing Officer ("AO") also issued notice u/s 133(6) of the Act to the concerned Jt. Sub-Registrar calling for certain details specified therein. Thereafter, a final show cause letter/notice was

issued to the assessee on 09.01.2024 asking the assessee to show cause why the amount of Rs.68,13,250/- on sale of immovable property should not be added to the total income being undisclosed income as the assessee has not filed his the return of income. Due to lack of any explanation/submission filed by the assessee in response to the said show cause notice, the Ld. AO proceeded to complete the assessment ex-parte u/s 147 r.w.s. 144 of the Act at assessed income of Rs.68,13,250/- on account of unexplained investment u/s 69 r.w.s. 115BBE of the Act vide his order dated 27.01.2024.

3. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC which was rejected by the him on account of delay in filing of the appeal by 143 days for the reason that the explanation/reason given by the assessee for such delay does not amount to 'sufficient cause' for condonation of delay.

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

- “1. *The learned CIT(A) erred in law and facts by dismissing the appeal solely on the ground of delay of 143 days, despite the appellant having shown reasonable and bona fide cause for the delay.*
2. *The Learned CIT(A) erred in dismissing the appeal without affording proper and adequate opportunity of being heard. The assessee was issued a notice on 22.09.2025 requiring furnishing of passport and other evidence, but the appeal was dismissed on 30.09.2025 without granting reasonable time to comply. thereby violating principles of natural justice.*
3. *The learned CIT(A) failed to appreciate that the tax demand of Rs.59,78,862 has arisen solely due to the addition made in respect of investment in immovable property purchased by the assessee and does not constitute taxable income. The addition has been made merely on the basis of information without verifying the source of funds or providing the assessee an adequate opportunity to explain the transaction.*
4. *The Learned CIT(A) failed to consider that the appellant, being a Non-Resident, is not required to file an Income-tax Return in India, as his source of income is salary received in the UK, which is not taxable in India.*
5. *The learned CIT(A) erred in dismissing the appeal without deciding the case on merits, which is contrary to the principles of natural justice.*
6. *The appellant craves leave to add, amend, alter or withdraw any of the above grounds at the time of hearing.”*

5. The Ld. AR submitted that the delay in filing of the appeal before the Ld. CIT(A)/NFAC was not deliberate but occurred due to the certain unavoidable circumstances beyond the control of the assessee. He submitted that the assessee is a non-resident who was employed and residing in UK during the relevant AY 2016-17. All the notices were electronically issued to the assessee which were not received by the assessee due to non-accessibility abroad. The assessee came to know about the assessment proceedings only when he received recovery notices at his Indian address. Soon after, the assessee engaged a Tax professional and filed an appeal without any further delay before the Ld. CIT(A)/NFAC. He further submitted that the Ld. CIT(A)/NFAC has asked the assessee to furnish a copy of his passport and other supporting documents vide notice issued on 22.09.2025. Since all his personal records and documents, including his passport were available with him abroad some time was needed to arrange and file the same. The Ld. CIT(A)/NFAC, however, proceeded to dismissed the appeal of the assessee on 30.09.2015 within a short span of 8 days from the date of issue of the said notice and therefore no sufficient time was granted to the assessee to comply with the notice of the Ld. CIT(A)/NFAC. He, thus contended that the delay in filing of the appeal should have been condoned by the Ld. CIT(A)/NFAC and he should have decided the appeal on merit. So far as the merits of the case is concerned, the Ld. AR submitted that the assessee has a strong case on merits and all the relevant details/documents in support thereof have been filed by the assessee before the Ld. CIT(A)/NFAC and/or the Ld. AO, however, without considering the same the Ld. CIT(A)/NFAC dismissed the appeal in limine for delay in filing of the appeal without deciding the issue on merits. He submitted that given an opportunity the assessee is in a position to substantiate his case by filing the requisite details before the Ld. CIT(A)/NFAC and urged that in the interest of justice the matter may be restored to the file of the Ld. CIT(A)/NFAC with a direction to condone the delay in filing of the appeal and decide the issue afresh on merits after affording reasonable 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 as well as paper book filed by the Ld. AR

on behalf of the assessee. It is an admitted fact that due to delay in filing of the appeal before the Ld. CIT(A)/NFAC by 143 days, he dismissed the appeal on the ground that there was no reasonable/sufficient cause shown by the assessee for delay in filing of the appeal. It is the submission of the Ld. Counsel for the assessee that the delay in filing of the appeal resulted on account of the reasons cited above which was beyond the control of the assessee. There was thus reasonable cause on the part of the assessee. It is the submission of the Ld. Counsel for the assessee that the assessee has a strong case on merits and given an opportunity he is in a position to file and substantiate his case by filing the requisite details/explanation/documents in support of his claim and has therefore urged that the Ld. CIT(A)/NFAC may be directed to condone the delay and decide the issue afresh on merits.

8. We find some force in the arguments advanced by the Ld. AR. 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 assessee. 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