

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "D" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
AND  
MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER

ITA No. 5890/Mum/2025  
Assessment Year : 2016-17

Ramesh Baburao Kadam, Suyog Samuh Co-Op. Hsg. Soc., B 704, Sec 8, Plot No. 41 Sanpada, Navi Mumbai-400705. PAN : AZXPK7228G	vs.	Income Tax Officer, Ward-42(3)(2), Mumbai.
(Appellant)		(Respondent)

For Assessee :	Shri Kushal Gada <i>(Virtually present)</i>
For Revenue :	Shri Annavaram Kosuri

Date of Hearing :	29-01-2026
Date of Pronouncement :	09-02-2026

**ORDER**

**PER VIKRAM SINGH YADAV, A.M :**

This is an appeal filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 23-07-2025, pertaining to Assessment Year (AY) 2016-17.

2. Briefly, the facts of the case are that the assessment in this case was completed u/s. 147 r.w.s. 144 of the Income Tax Act, 1961 (‘the Act’), vide order dt. 07-03-2024, wherein the AO has brought to tax an amount of Rs. 1,35,58,800/- being the amount received on sale of immovable property as Short Term Capital Gains and assessed income was accordingly determined at Rs. 1,35,58,800/-. The assessee thereafter

carried the matter in appeal before the Ld.CIT(A), who has since dismissed the appeal of the assessee on account of delay in filing of the appeal and against the said order, the assessee is in appeal before us.

3. During the course of hearing, the Ld.AR submitted that the assessee is a 65 years old retired individual and he is not keeping good health and he was unaware of the tax proceedings in terms of the notices issued by the AO, which has resulted in passing of the *ex-parte* order by the AO and thereafter, when the assessee came to know that the assessment order has been passed in his case raising a huge demand of Rs. 1,28,87,785/-, the assessee filed an appeal before the Ld.CIT(A) alongwith an affidavit and condonation of delay application, which has been rejected by the Ld.CIT(A). It was submitted that there was a reasonable cause for the delay in filing of the appeal by the assessee and necessary affidavit and condonation application duly filed by the assessee may be considered and delay in filing the appeal may be condoned. It was further submitted that before rejecting the appeal, the Ld.CIT(A) has not issued any notice to the assessee and, therefore, necessary opportunity has also not been provided by the Ld. CIT(A) before dismissing the appeal so filed by the assessee. Further, the ld AR submitted that the assessee seeks to file additional documentation in terms of allotment letter, possession letter dt. 01-02-2011 issued by MHADA, sale agreement and confirmation letter etc. which he could not submitted before the lower authorities and the matter may be set aside for necessary examination and verification.

4. The Ld.DR has been heard, who has relied on the order passed by the lower authorities. It was submitted that given that the assessee has not appeared before the AO as well and seeks to file additional documentation, where the Bench so decide, the matter may be restored to the file of the AO for necessary examination and verification.

5. We have heard the rival contentions and perused the material available on record. As evident from records it is clear that the Ld.CIT(A) dismissed the appeal of the assessee without taking into consideration the affidavit seeking condonation of delay in filing the appeal and it is also a fact that before rejecting the appeal, the Ld.CIT(A) did not issue any notice to the assessee and, therefore, necessary opportunity has also not been provided by the Ld.CIT(A). In view of the above, we are of the considered opinion that in the interest of justice, the assessee should be granted one more opportunity to submit additional documentation and to represent his case diligently. Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the AO for deciding the same afresh as per law after providing reasonable opportunity to the assessee. We also direct the assessee to fully co-operate with the AO for expeditious disposal of the matter and is at liberty to file necessary explanation / additional documentation as so advised.

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

Order pronounced in the open court on 09-02-2026.

Sd/-

[MS. KAVITHA RAJAGOPAL]  
JUDICIAL MEMBER

Mumbai,  
Dated: 09-02-2026

TNMM

Sd/-

[VIKRAM SINGH YADAV]  
ACCOUNTANT MEMBER

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai