

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.7764/Mum/2025
(Assessment Year :2017-18)**

Hyginus Joseph D'SA A/14, Andheri Indira Darshan Convent Avenues, Four Bunglow Andheri West Mumbai – 400 053	Vs.	Income Tax Officer Mumbai
PAN/GIR No.AAGPD1797D		
(Appellant)	..	(Respondent)

Assessee by	Shri Tarun Arora
Revenue by	Shri Hemanshu Joshi, Sr. DR
Date of Hearing	04/02/2026
Date of Pronouncement	09/02/2026

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The present appeal has been preferred by the assessee against the order dated 22.09.2025 passed by the National Faceless Appeal Centre, Delhi, arising out of reassessment proceedings under section 147 of the Income-tax Act, 1961, for the assessment year 2017-18.

2. At the very threshold, it is noticed that the learned Commissioner of Income-tax (Appeals) has dismissed the appeal solely on the ground of limitation, holding that the appeal was barred by delay and declining to condone the same, without entering into the merits of the additions made by the Assessing Officer.

3. From a careful perusal of the impugned appellate order, it emerges that the assessee had duly placed on record a detailed application seeking condonation of delay, which has been reproduced by the learned CIT(A) in paragraph 2.8 of his order. The substance of the explanation tendered by the assessee was that he was compelled to travel abroad to Canada to visit his son, where he remained outside India for a continuous period of approximately two months commencing from 05.07.2023. It was explained that the said travel had been planned well in advance, with non-refundable arrangements already in place, rendering cancellation impracticable and financially burdensome.

4. It was further explained that subsequent thereto, the assessee was required to travel to his native place in Goa between 08.10.2023 and 17.10.2023 on account of unavoidable family and social exigencies. In addition, the assessee submitted that considerable time was consumed in collating old and scattered documents and in appointing and briefing the learned authorised representative, culminating in a delay of 165 days in filing the appeal. It was specifically pleaded that the delay was

neither deliberate nor attributable to any negligence or lack of diligence on the part of the assessee and that no prejudice would be caused to the Revenue if the appeal were admitted and decided on merits.

5. The learned CIT(A), however, proceeded to dismiss the appeal by mechanically noting a delay of 169 days, without recording any finding as to the sufficiency or otherwise of the cause shown and without addressing the settled principle that procedural prescriptions are intended to advance the cause of justice and not to thwart adjudication on merits.

6. Having considered the entirety of the explanation furnished by the assessee, we find that the reasons cited are bona fide, plausible, and duly supported by surrounding circumstances. The assessee's absence from India for a substantial period, followed by unavoidable domestic exigencies and the time necessarily required for document collation and legal consultation, clearly constitute sufficient cause. There is nothing on record to suggest any contumacious conduct, deliberate inaction, or mala fide intent. In such circumstances, and bearing in mind the well-established principle that justice-oriented approaches must prevail over pedantic technicalities, we are of the considered opinion that the delay in filing the appeal before the learned CIT(A) deserves to be condoned. Accordingly, the delay stands condoned.

7. Coming now to the merits, the Assessing Officer has brought to tax an amount of ₹99,17,000/- as short-term capital gains by invoking section 50C of the Act, on the premise that the assessee failed to furnish documentary evidence in respect of cost of acquisition and cost of improvement. The factual matrix reveals that the properties in question were originally agreed to be sold by the assessee's mother through agreements dated 29.03.1996 and 25.02.1998 for consideration of ₹10,000/- and ₹1,76,000/- respectively. These agreements, though executed, remained unregistered, and the formal registered conveyances were eventually executed only on 30.09.2016 and 04.03.2017. Owing to the lapse of nearly two decades, the stamp duty valuation at the time of registration aggregated to ₹99,17,000/-, which was adopted by the Assessing Officer for computing capital gains.

8. Before us, it has been fairly submitted on behalf of the assessee that owing to the passage of time and non-availability of old records, the requisite documents could not be properly collated and produced during the reassessment proceedings. It was therefore prayed that one final opportunity be granted to substantiate the assessee's claim regarding cost of acquisition and other relevant aspects, and that the matter be restored to the file of the Assessing Officer for fresh adjudication in accordance with law. The learned Departmental Representative has also not raised any serious objection to such a course of action.

9. Considering the totality of facts and circumstances, and in the interest of substantial justice, we deem it appropriate to restore the issue relating to the computation and taxability of capital gains of ₹99,17,000/- to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter afresh, after granting due and reasonable opportunity of being heard to the assessee, and shall pass a speaking order in accordance with law.

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

Order pronounced on 9th February, 2026.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Mumbai; Dated 09/02/2026
KARUNA, sr.ps

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar)
ITAT, Mumbai