

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI  
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND  
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

ITA No.7633/Mum/2025  
(Assessment Year: 2016-17)

Manojkumar Vipracharan Nayak, A-1002, Vista Lakeshore Green Lodha Pllava Phase-2, Dombivali East, Mumbai - 421204	Vs.	Income Tax Officer -23(2)(6), Mumbai - 400012
<b>(Appellant)</b>	:	<b>(Respondent)</b>
PAN NO. ADJPN 6348 N		

<b>Appellant by</b>	:	Shri Abhay Bisht (Virtually Present)
<b>Respondent by</b>	:	Shri Annavaram Kosuri (SR- AR)
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Date of Hearing</b>	:	05.02.2026
<b>Date of Pronouncement</b>	:	11.02.2026

**ORDER**

Per Saktijit Dey, Vice President:

This is an appeal by the assessee against an order dated 10.03.2025 passed by National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year (A.Y.) 2016-17.

2. At the outset, we must observe, there is a delay of 174 days in filing the appeal. The assessee has filed an affidavit explaining the reasons for delay and seeking condonation thereof.

3. After considering the submissions of the parties, we are satisfied that delay in filing the appeal was due to reasonable cause. Accordingly, we admit the appeal for adjudication after condoning the delay. The basic grievance of the assessee is against dismissal of its appeal in limine through an ex-parte order.

4. We have heard the parties and perused the materials on record. Briefly stated, assessee is a resident individual. For the assessment year under dispute, assessee filed his return of income on 29.07.2016, declaring income of Rs.8,37,247/-. The return of income filed by the assessee was selected for scrutiny. While completing the assessment, the Assessing Officer made certain additions aggregating to Rs.1,12,92,951/-, resulting in determination of total income at Rs.1,21,30,198/-. Contesting the additions made by the Assessing Officer, assessee preferred an appeal before learned First Appellate Authority. However, by the impugned order, learned First Appellate Authority dismissed assessee's appeal. A reading of the order of learned First Appellate Authority reveals that the appeal was fixed for hearing for the first time on 04.02.2021 however, no one appeared on that date. Thereafter, for more than three years nothing happened. Long after, on 12.08.2024, the appeal was again fixed for hearing. On the said date, as also, on 10.09.2024 to which date the appeal was adjourned, assessee sought adjournment. Ultimately, the appeal was fixed for hearing on 06.03.2025. Alleging that on the date of hearing, none appeared on behalf of the assessee nor any adjournment letter was filed, learned First Appellate Authority proceeded to hear the appeal ex-parte. A reading of the appeal order clearly demonstrates that learned First Appellate Authority, basically, has

dismissed the appeal for non-prosecution. This, in our view, is against statutory mandate as the First Appellate Authority is required to decide the appeal on merits. As discussed earlier, while completing the assessment, the Assessing Officer has made substantial addition of more than one crore to the returned income, which has resulted in huge tax burden on the assessee. The assessee being an individual, deserves a fair opportunity to contest the additions by furnishing supporting documentary evidences. Since, the appeal before the learned First Appellate Authority was dismissed apparently for non-prosecution, the assessee did not get any opportunity to argue the issues on merits.

5. In view of the aforesaid, we are inclined to set aside the impugned order of learned First Appellate Authority and restore the issues back to his file for *denovo* adjudication after providing due and reasonable opportunity of being heard to the assessee. We direct the assessee to diligently respond to the notice of hearing to be issued by learned First Appellate Authority and make effective representation to facilitate disposal of the appeal in a proper manner.

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

*Order pronounced in the open court on 11/02/2026.*

Sd/-  
(Makarand Vasant Mahadeokar)  
Accountant Member

Sd/-  
(Saktijit Dey)  
Vice President

Mumbai; Dated : 11/02/2026

Aks/-

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai