

**IN THE INCOME-TAX APPELLATE TRIBUNAL “A” BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.4884/MUM/2025
(A.Y. 2013-14)**

Arfeen Mozaffar Khan 701, Ashoka Tower, Off. Yari Road, Versova Andheri (West), Mumbai - 400 058, Maharashtra	v/s. बनाम	Income Tax Officer, Ward - 24(1)(2) Room No. 605, 6 th Floor, Piramal Chamber, Lal Baug, Parel, Mumbai - 400012, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AGMPK0604J		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Shri Milind Wadhvani, (virtually appear)
Revenue by :	Shri Surendra Mohan, (Sr. DR)

Date of Hearing	18.12.2025
Date of Pronouncement	09.02.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal arising from the appellate order dated 29.05.2024 is preferred by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] pertaining to assessment order passed u/s. 147 r.w.s. 144 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 28.12.2019 for the Assessment Year [A.Y.] 2013-14.



2. The grounds of appeal are as under:

1. *On the facts and in the circumstances of the case and in law, 1 the Learned NFAC erred in upholding the addition of Rs. 1,39,19,364/- made to the income of the appellant.*
2. *On the facts and in the circumstances of the case and in law, the Ld. NFAC erred in not holding that the provisions of section 68 of the Income-tax Act, 1961, were not applicable.*
3. *On the facts and circumstances of the case and in law, the NFAC order dated 29.05.2024 is contrary to law, facts and circumstances of the case and in any case is opposed to the principles of equity, natural justice and fair play.*
4. *On the facts and in the circumstances of the case and in law, 4 the reassessment order dated 28.12.2019 is without jurisdiction, bad in law, and liable to be quashed.*
5. *On the facts and circumstances of the case and in law, the additions are made on mere conjectures, surmises and suspicions.*
6. *On the facts and circumstances of the case and in law, the 6 reassessment was completed without complying with the statutory requirements of law.*
7. *On the facts and in the circumstances of the case and in law, the notice issued under section 148 of the Income-tax Act, 1961 dated 31.03.2019 is void ab initio, illegal, and therefore liable to be quashed.*
8. *On the facts and circumstances of the case and in law, the Ld. 8 AO could not have reasons to believe that income chargeable to tax has escaped assessment.*
9. *On the facts and in the circumstances of the case and in law, the Ld. NFAC erred in holding that the appellant had failed to discharge the onus under section 69A of the Act, WHERE the addition was itself made under section 68.*

3. At the outset, it was pointed out by the Registry that the appeal has been filed after a delay of 371 days. In this regard, the assessee has



filed an application seeking condonation of the delay alongwith an affidavit stating Before us, the ld.AR contended that the assessee had specifically requested that all appeal notices and communications be sent to the email address: arfeen@arfeenkhan.com.Despite the express request, notices were sent to prem.peakevents@gmail.com to the email address of former employee, Shri Premnath Patil who did not inform him about any such the notices. It is further submitted that the assessee was completely unaware of the two hearing notices dated 16.09.2022 and 28.09.2022. He apprehended that these notices may have been directed to the spam folder of his email account and never caught his attention. Furthermore, none of the notices were ever served physically upon him. Consequently, he remained unaware of the appellate proceedings. Subsequently, upon receipt of the penalty notice, he sought professional consultation from a Chartered Accountant, who, after reviewing the Income Tax Portal, informed of the said order and further advised to prefer an appeal against the said order before the Hon'ble Income Tax Appellate Tribunal, Mumbai. Thereafter, he promptly filed the present appeal, albeit with a delay. It is submitted that the delay was inadvertent and due to lack of knowledge and factors beyond his control. There was no malafide intention or negligence.



4. On careful consideration of the submissions of the assessee, we are of the considered opinion that the delay in filing of the present appeal was not intentional but due to unavoidable and sufficient cause. Such a bonafide mistake needs to be considered liberally. In this connection, reliance could be placed on the landmark decision of hon'ble Supreme Court which inter alia held in **Collector, Land Acquisition v Mst. Katiji And Others- 167 ITR 471 (SC)** that *“ordinarily, a litigant does not stand to benefit by lodging an appeal late.....Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated....Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.... A litigant does not stand to benefit by resorting to delay. In fact, he runs serious risk.”* We therefore, condone the delay and proceed to adjudicate the grounds on merit.

5. Facts of the case are that the assessee filed return of income declaring total income of Rs 5,88,630/-.The case was reopened based on information from DDIT(Inv), Mumbai that the assessee had received a



sum of Rs. 1,24,24,600/- from his personal bank account maintained in the United Arab Emirates (UAE).As per the reasons recorded, he received following credits in India during FY 2012-13:

Date	Source	Amount
14.06.2012	Personal Account in UAE	1,24,24,600
06.08.2012	Personal Account in UAE	10,66,800
07.09.2012	Fandale Limited UAE	8,54,000
14.02.2013	Personal Account in UAE	2,75,164
	Total	1,46,20,564

5.1 Subsequently, notice u/s. 148 of the Act was issued. The AO observed that the assessee had disclosed gross receipts of Rs. 7,01,200/- in the return. After allowing credit for this amount against the alleged total credits of Rs. 1,46,20,564/-, the balance of Rs. 1,39,19,364/- was treated as unexplained cash credits under section 68 of the Act and passed an ex-parte assessment order under section 144/147 of the Act on account of non compliance before him, assessing total income at Rs. 1,45,17,998/-.Aggrieved by the order, the assessee preferred an appeal before the NFAC. However, the Id.CIT(A) dismissed the appeal on account of repeated non-compliance by the assessee.

6. We have heard the rival parties and perused the material available on records. It is observed that the Id.CIT(A) dismissed the appeal mainly on the ground of non-prosecution. It is the fundamental duty of the assessee to diligently pursue the appeal and



comply with the notices and proceedings initiated by the Revenue authorities. Despite several notices issued under section 250 of the Act by the Id.CIT(A), no explanation was submitted. Even the assessment order has been passed making the impugned addition as the assessee did not make proper compliance before the AO as well. The failure of the assessee to make any response before both the authorities below reflects gross negligence and indifference that is unacceptable. In the present case, despite receiving adequate opportunities, the assessee displayed a casual approach and indifference, which cannot be ignored.

7.1 In light of the non-compliant attitude of the assessee, levy of cost needs to be evaluated in this case as cost serves as a necessary deterrent to ensure that taxpayers act with due diligence in pursuing their appeals and respecting the timelines and processes laid down under the law. It also emphasizes the principle that while justice must be ensured, the system cannot cater to indolence or negligence on the part of the assessee.

7.2 As the Id. AR has requested before us that the assessee may be given one more opportunity, we are also of the opinion that the scales of justice demands that the matter should be verified and revisited at the level of Id. CIT(A) and accordingly, the matter should be remanded back



to the file of ld. CIT(A) for *de novo* adjudication by him while applying the principles of natural justice after affording sufficient opportunity of being heard to the assessee. In case of any further non compliance, the ld.CIT(A) would be at liberty to decide the appeal as deemed fit.

8. Further, considering assessee's non-compliant and non-co-operative attitude and lack of diligence in pursuing the appeal, we impose a cost of Rs. 25,000/- on him. The cost shall be deposited in the Prime Minister's Relief Fund within 15 days of the receipt of this order and proof of payment shall be submitted before the ld.CIT(A).

9. In the result, the appeal is allowed with cost for **statistical purposes.**

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

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 09.02.2026

Lubhna Shaikh / Steno

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant



2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

