

**आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“F” BENCH, MUMBAI**

**BEFORE SHRI ARUN KHODPIA, AM &**  
**SHRI RAHUL CHAUDHARY, JM**

**I.T.A. No. 7946/Mum/2025**  
(Assessment Year: 2016-17)

**I.T.A. No. 7947/Mum/2025**  
(Assessment Year: 2017-18)

**I.T.A. No. 7948/Mum/2025**  
(Assessment Year: 2017-18)

<b>Vijay Kumar Chawla,</b> Flat No. 101, City Tower, Near Madhusudana Ashram, Near Shalimar Society, Ulhasnagar-3, Kalyan-421002. <b>PAN: ADKPC1844M</b>	Vs.	<b>ITO, Ward-2(2),</b> Mohan Plaza, Wayle Nagar, Swananad Colony, Gandhar Nagar, Khadakpada-421301.
<b>Assessee -अपीलार्थी / Appellant</b>	:	<b>Revenue - प्रत्यर्थी / Respondent</b>

**Assessee by** : Shri Mohit Makhija and Ms.  
Manisha Ghind, AR

**Revenue by** : Ms. Kavitha Kaushik, Sr. DR

**Date of Hearing** : 04.02.2026

**Date of Pronouncement** : 11.02.2026

**ORDER**

**Per Bench:**

The aforesaid appeals are preferred by the assessee, arising from the separate orders of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year (AY) 2016-17 & 2017-18 dated 18.09.2025, which in turn arises from the order under section 147

r.w.s. 144 of the Income Tax Act, 1961 (the Act) dated 22.03.2022 and penalty orders u/s 270A dt 30.08.2022 as well as 271(1)(c) dt 13.09.2022.

2. At the outset the ld. Counsel of the assessee preferred and requested to first take up the quantum appeal of the assessee in ITA No. 7948/Mum/2025 for AY 2016-17. Ld. AR referred the grounds of appeal and requested to argue on the legal ground first challenging the jurisdictional issues invalidating the entire assessment.

3. Per contra Ld. Sr. DR representing the revenue opposed the contentions of the Ld. AR, stating that the assessee was a persistent non-compliant before both the authorities below, leading to best judgment assessment u/s 144 and again an *ex-parte* order by the CIT(A), so any contention which was never raised / examined by the revenue authorities shall not be entertained at this stage.

4. Ld. Sr. DR submitted that the assessment order was passed on 22.03.2022, whereas the judgments relied by the Ld AR, directing to follow the amended provisions of section 148A, as per decision in the case of *Union of India vs. Ashish Agarwal [2022] 444 ITR 1 (SC)* by the Hon'ble Apex Court was passed on 04.05.2022, therefore the ld. AO has no occasion or benefit of such order to follow the directions accorded therein. Also, the guidelines issued by CBDT in May 2021 in this respect were not available with the ld. AO at the

time when assessment was completed. It is further submitted by ld. DR that as the TOLA relaxation were also available to the ld. AO, in terms of *suo-motu* directions by the Hon'ble Apex Court wherein the time limits were extended up to 30.06.2021, therefore the notice issued under section 148 dated 31.03.2021, even if it was digitally signed on 07.04.2021, was very much within the time limits as relaxed by the Hon'ble Apex Court. In view of such facts the notice issued under section 148 (old regime) and the approval u/s 151 (old regime) granted by JCIT Range-1, Kalyan could not be construed to be violative or illegal.

5. On a fair consideration of aforesaid facts, we note that before the First Appellate Authority (FAA) the assessee had filed the appeal after 912 days and requested for condonation of delay taking the plea that the assessee was severely unwell having suffered with a massive heart attack. Further on this count the business of assessee was also suffered and even his livelihood has affected to a great extent. After considering such submissions of the assessee, the ld. CIT(A) has very fairly condoned the delay. However, the assessee remained non-compliant before the ld. CIT(A) also during the entire appellate proceedings and therefore the appeal of assessee was dismissed on *ex-parte* basis after reproducing facts as available on the record with the final finding that the Appellate proceedings cannot be allowed to be upheld hostage by

dilatory tactic on the part of appellant and a complete disdain of statutory notices, therefore the addition made was confirmed.

6. In backdrop of such facts and circumstances Sr. DR submitted that the assessee was very leniently dealt with by the authorities below, however he remained non-compliant, therefore, the impugned order of Id. CIT(A) cannot be held to be un justified, the same deserves to be sustained.

7. In rebuttal the Id. AR of the assessee submitted that the identical appeal in the assessee's for AY 2016-17 had come up before the ITAT, Mumbai "F" Bench in ITA 5886/Mum/2025, wherein the issues were restored back to the file of Id. AO to be adjudicated in accordance with law.

8. We have considered the rival submissions and perused the material available on record. Admittedly under the identical facts and circumstances, wherein the assessee remained non-compliant before both the authorities below, therefore there was no proper adjudication of assessee's case in absence of any submission by the assessee, however considering the assessee's bad health and family conditions, we find it justified allow one more opportunity to the assessee to represent his case, so the same is restored back to the file of Id. AO, with similar directions as given in assessee's own case in ITA No. 5886/Mum/2025 for AY 2016-17. For the sake of clarity, the relevant observations from the aforesaid decisions are extracted as under:

*“4. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that the assessee could not put effective representation before Ld. CIT(A) and AO on account of the fact that assessee was suffering from mental un-stability and had suffered massive heart attack resulting into business loss. Even assessee could not connect with his chartered accountant and in this regard has filed a detailed affidavit to support its contention therefore taking a lenient view under the peculiar fact of the case the Bench is of the view that one more opportunity be given to the assessee to represent his case before the revenue authorities. Therefore, considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of AO denovo assessment by providing one more opportunity to the assessee. Subject to cost of Rs. 10,000/- to be deposited into Prime Minister’s Relief Fund and a copy of the receipt shall be placed on file before AO within 30 days from the date of receipt of this order. The assessee is at liberty to take any other or new grounds of appeal before AO which shall be adjudicated by AO in accordance with law. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.*

*5. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the AO independently in accordance with law.”*

9. In view of aforesaid facts, circumstances and observations, without any deliberation on the merits of the case, the ground of appeal in ITA 7948/Mum/2025 for AY 2016-17 are set-aside to the file of ld. AO for fresh adjudication.

10. The other two appeal of the assessee for AY 2017-18 are against the penalties imposed by the ld. AO, which were challenged and dismissed by the

Ld. CIT(A) giving identical finding on *ex-parte* basis, in absence of any response of the assessee. Thus, are at parity owing to similar facts and circumstances, as fairly conceded by both the parties before us, are also set-aside to the file of ld. AO, as per our decision in **ITA 7948/Mum/2025**, which shall apply *mutatis-mutandis* to the remaining two appeals in **ITA Nos. 7946 & 7947/Mum/2025**.

11. In result, all the captioned appeal of assessee are **allowed for statistical purposes**, in terms of our aforesaid observations.

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

*Sd/-*  
**(RAHUL CHAUDHARY)**  
**Judicial Member**  
Mumbai, Dated : 11-02-2026.  
*\*SK, Sr. PS*

*Sd/-*  
**(ARUN KHODPIA)**  
**Accountant Member**

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**