

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH MUMBAI**

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

**ITA No. 7644/Mum/2025
(Assessment Year: 2010-11)**

Avaneesh Impex Private Limited Office No. B-311, Vallabh Bhuvan, 3 rd floor, Babubhai Vashi road, Near Laxmi Narayan Mandir, Mumbai - 400056	Vs.	ITO 4(1)(2) Room No. 636 6 th Floor, Aayakar Bhavan. Mumbai - 400020
PAN/GIR No. AAHCA8661R		
(Applicant)		(Respondent)

Assessee by	Shri Rahul Punmiya
Revenue by	Shri Brajendra Kumar (SR. DR.)

Date of Hearing	09.02.2026
Date of Pronouncement	17.02.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 30.09.2025 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the Office of the Commissioner of Income Tax, Appeal ADDL/JCIT (A),

Faridabad for the assessment year 2010-11. The following grounds are reproduced below:

“I. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in law and on facts in dismissing the appeal ex-parte on the alleged ground of delay of 47 days ignoring that the appeal was duly filed within time and that no delay existed either in physical filing or in electronic filing. The finding of delay is therefore factually incorrect, legally unsustainable and contrary to the record.

II. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) failed to appreciate that CBDT Circular No. 20/2016 dated 26.05.2016 had expressly extended the time limit for mandatory e-filing of first appeals up to 15.06.2016 and the said circular is squarely applicable in case of the appellant. The Commissioner of Income Tax (Appeals) erred in not appreciating that the appeal electronically filed by the appellant on 02.06.2016 was well within extended time limit by Circular No. 20/2016 issued by CBDT. Thus, the appeal was validly filed within the extended statutory time, and the conclusion of "delay" is patently erroneous.

III. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in not verifying and considering the appellant's physical appeal filed on 26.04.2016-well within the original 30-day limitation period-and also failed to consider that the appellant has e-filed appeal as per the CBDT's binding administrative instructions issued under section 119 of the Act, thereby passing an order contrary to the statutory scheme and established procedure.

IV. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) erred in dismissing the appeal without granting proper opportunity of hearing and without deciding the issues on merits, in complete violation of the principles of natural justice and the mandate of section 250(6) of the Act requiring a speaking and reasoned order.

V. On the facts and in the circumstances of the case and in law, the learned Commissioner of Income Tax (Appeals) ought to have adjudicated the appeal on merits instead of summarily dismissing it on an incorrect assumption of delay, especially when the appeal was validly filed within time both physically and electronically. The order is therefore vitiated and liable to be set aside.

VI. Without prejudice, the reassessment proceedings completed under section 147 r.w.s. 143(3) suffer from jurisdictional defects, procedural infirmities and lack of valid reasons to believe, and the additions made therein are unsustainable in law as well as on facts.

VII. The appellant craves to add, amend, alter, vary, omit or substitute any grounds of appeal at the time of or before the hearing of appeal.”

2. At the very outset, Ld. AR had submitted that Ld. CIT(A) had dismissed the appeal without deciding the same on merits, therefore order be set aside.

3. On going through the case file we noticed that there was a delay of 47 days in filing the appeal before Ld. CIT(A) and Ld. CIT(A) rejected the appeal filed by the assessee on this ground alone. More particularly in para 3.3 of its order, Ld. CIT(A) had categorically mentioned that while filing the appeal in Form 35, the assessee had stated that there is no delay in filing the appeal. Whereas there was a delay of 47 days hence the appeal was rejected.

4. Be that as it may without going into the merits of the issues raised by the parties, we noticed that before

dismissing the appeal, Ld. CIT(A) had not granted any opportunity to the assessee for moving application for seeking condonation of delay therefore Bench is of the view that matter be restored back to the file of Ld. CIT(A) with a direction to provide opportunity of hearing to the assessee for filing the application mentioning the reasons for seeking condonation of delay. At the same time assessee is also directed to file appropriate application for seeking condonation of delay along with affidavit and documents if any.

5. Needless to mention that the Ld. CIT(A) shall provide adequate opportunity of hearing to the assessee. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

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

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

Order pronounced in the open court on 17.02.2026

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 17/02/2026

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai