

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

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)**

**ITA No. 7104/MUM/2025
Assessment Year: 2020-21**

Bharti Nehru Kariya,
Flat No. C101, Shree Pati
Annexe 2, Gowalaia Tank
Tardeo, Mumbai-400036.
PAN NO. ALNPK 7260 Q
Appellant

ITO Ward 19(1)(1),
Piramal Chamber,
Mumbai-400012.
Vs.

Respondent

Assessee by : Manisha Ghind (Virtually appeared)
Revenue by : Mr. Swapnil Choudhari, Sr. DR

Date of Hearing : 12/02/2026
Date of pronouncement : 23/02/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 12.09.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2020-21, raising following grounds:



1. *The Hon'ble CIT (A) [NFAC] has erred in passing an Ex-parte Appellate Order, without having offered reasonable opportunity of being heard.*
2. *The Hon'ble CIT (A) [NFAC] has failed in appreciating the facts that the Ld. Assessing Officer has erred in disallowing an amount of Rs. 12,79,748/-, without appreciating the facts of the case, the documentary evidences furnished before him.*
3. *The Hon'ble CIT (A) [NFAC] has failed in appreciating the facts that the Ld. Assessing Officer has erred in treating an amount of Rs. 1,75,00,000/- as unexplained investment u/s 69A of the I.T. Act, 1961, not only without appreciating the facts of the case as well law, but without even having made any effort to cross verify the facts.*
4. *The appellant craves leave to add, amend, alter and/or vary any of the grounds at the time or before the hearing of this appeal.*
5. *The appellant therefore prays that the addition/ disallowance made by the Ld. Assessing Officer and subsequently upheld by Hon'ble CIT (A) may please be deleted and/or alternatively the appellate order passed by the Hon'ble CIT (A) in an Ex-parte manner and Assessment order passed by the Ld. Assessing Officer may please be restored back to Hon'ble CIT (A) or Ld. Assessing Officer for fresh adjudication after providing appellant with a fair and reasonable opportunity of being heard.*

2. Facts qua the issue in dispute are that in the assessment completed, the Assessing Officer disallowed the claim of interest expenditure amounting to Rs.12,79,748/- on borrowed capital in absence of bank certificate and loan sanction letter. Similarly, the AO made addition for amount of Rs.1.75 crores for investment in immovable property in absence of documentary evidence supporting the contention of the loan taken. Accordingly, the Assessing Officer completed the assessment u/s 143(3) of the Act on 20.09.2022 assessing the total income of Rs.1,89,84,368/-.



2.1 In the first appellate proceedings, the Ld. CIT(A) observed that the assessee remained non-responsive to three statutory notices issued between November 2024 and August 2025. Applying the legal maxim "*Vigilantibus non dormientibus jura subveniunt*" (the law assists the vigilant, not those who sleep over their rights), the Ld. CIT(A) concluded that the assessee was not interested in pursuing the appeal. Relying on the ratio in *CIT vs. B. N. Bhattacharya* [118 ITR 461], the Ld. CIT(A) dismissed the appeal on merits based on the available record, confirming the additions for want of evidence.

2.2 Before us, the Ld. Counsel for the assessee has raised a plea of significant hardship. It is contended that the assessee, being an individual with limited literacy and unfamiliarity with the nuances of digital communication and the **Income Tax Business Application (ITBA)** portal, was unaware of the electronic notices. The assessee maintains that the failure to comply was not a deliberate act of defiance but a consequence of the digital divide. A prayer is made to restore the matter to allow a fair opportunity to produce the loan sanction letters and bank certificates that were missing during the assessment.

3. We have carefully considered the rival contentions and perused the record. While we acknowledge the Ld. CIT(A)'s reliance on judicial discipline and the need for timely disposal, we must also consider the higher principle of the right to be heard.



3.1 The transition to a faceless and digital appellate regime is intended to enhance efficiency, but it must not become a barrier to justice for those who lack the technical proficiency to navigate such systems. The Hon'ble Supreme Court has repeatedly emphasized that "substantial justice" must prevail over technical lapses. If the assessee has a plausible explanation for the source of investment (alleged housing loan of ₹1.75 Cr.) and the interest expenditure, the merits should not be stifled due to a failure to respond to electronic notices, provided such failure is not mala fide.

3.2 In the interests of justice and to ensure that the assessment is based on the "real income" principle, we find it appropriate to grant the assessee a final opportunity to substantiate the claims.

3.3 Accordingly, the order of the Ld. CIT(A) is set aside, and the matter is restored to the file of the Assessing Officer (AO) for a fresh adjudication on merits. The AO shall:

- (i) Verify the housing loan sanction letter and bank certificates regarding the ₹1.75 Crore investment.
- (ii) Examine the interest certificates for the let-out properties.
- (iii) Allow the assessee a reasonable opportunity to present documentary evidence.



3.4 The assessee is strictly cautioned to be diligent in the remand proceedings. Any further failure to cooperate may result in an adverse inference.

3.5 The ground No. 1 of the appeal of the assessee is accordingly allowed for statistical purposes.

4. The remaining grounds are rendered academic.

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

Order pronounced in the open Court on 23/02/2026.

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 23/02/2026
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai