

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“F” BENCH MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT &  
SHRI MAKARAND V MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 8893/Mum/2025**

**A.Y:2016-17**

Jaikishin Omprakash Pahuja Flat No. 5599, Bild No. 206, Om Amey Chs, RN Narkar Marg Opp r Odeon Mall, Ghatkopar East, Mumbai – 400075	Vs.	ITO, Ward 2(2) 2 <sup>nd</sup> floor, Rani Mansion, Kalyan Murbad Road, Above Canara Bank, Syndicate Kalyan, Mumbai – 421301.
PAN/GIR No.ASJPP0267F		
(Applicant)		(Respondent)

Assessee by	Shri Bhupendra Shah
Revenue by	Shri Aniket Tiwari, Sr. DR

Date of Hearing	04.03.2026
Date of Pronouncement	05.03.2026

आदेश / ORDER

**PER MAKARAND V MAHADEOKAR, AM:**

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “CIT(A)”] under section 250 of the Income-tax Act, 1961 [hereinafter referred to as “the Act”] dated 22.10.2025, arising from the assessment order passed by the Assessing Officer under section 147 read with section 144B of the Act dated 19.02.2024 for Assessment Year 2016-17.

2. The brief facts of the case as emerging from the assessment order are that the assessee is an individual. Information was flagged in the Insight – Risk Management System (RMS) of the Income-tax Department indicating that the assessee had entered into certain high value financial transactions during the Financial Year 2015–16 relevant to Assessment Year 2016–17. The information available with the Department revealed that the assessee had (i) purchased an immovable property valued at Rs. 58,42,000/-, (ii) purchased equity shares through recognised stock exchange amounting to Rs. 11,04,732/-, and (iii) carried out sale transactions in equity shares aggregating to Rs. 26,83,235/- during the year under consideration.

3. Based on the aforesaid information, proceedings under section 148A of the Act were initiated. A show cause notice under section 148A(b) dated 03.02.2023 was issued to the assessee calling for explanation with regard to the above transactions. In response thereto, the assessee submitted a reply stating that he had inadvertently failed to file the return of income despite entering into the said transactions. Thereafter, the jurisdictional Assessing Officer passed an order under section 148A(d) dated 25.03.2023 holding that it was a fit case for issuance of notice under section 148. Accordingly, notice under section 148 dated 25.03.2023 was issued requiring the assessee to file the return of income for the relevant assessment year. In response to the said notice, the assessee filed his return of income on 12.04.2023 declaring total income of Rs. 10,20,880/-.

4. Subsequently, the Assessing Officer issued statutory notices under sections 143(2) and 142(1) calling for details and documentary evidences with regard to the financial transactions undertaken by the assessee. The assessment records show that

notices under section 143(2) dated 23.06.2023 and 28.07.2023 were issued but no response was received from the assessee. Thereafter, notice under section 142(1) dated 14.08.2023 was issued requiring the assessee to furnish information and supporting documents. Since there was no compliance, a non-responsive letter dated 23.08.2023 was issued to the assessee. In response thereto, the assessee sought adjournment on 25.08.2023 requesting time to arrange the relevant details. The Assessing Officer granted further opportunity and issued another notice under section 142(1) dated 12.10.2023, followed by a further notice under section 142(1) dated 09.11.2023. However, the assessee did not furnish the requisite details or documentary evidences in response to these notices.

5. In view of the non-compliance, the Assessing Officer issued a show cause notice dated 19.01.2024 proposing additions on account of unexplained investments. As no reply was received from the assessee within the stipulated time, the Assessing Officer proceeded to complete the assessment on the basis of material available on record.

6. While completing the reassessment, the Assessing Officer observed that the assessee had purchased an immovable property valued at Rs. 58,42,000/- during the relevant financial year as reported by the Sub-Registrar. Since the assessee failed to furnish documentary evidence explaining the source of investment, the Assessing Officer treated the said amount as unexplained investment under section 69 of the Act and taxed the same under section 115BBE. The Assessing Officer further observed that the assessee had purchased equity shares amounting to Rs. 11,04,732/- through the National Stock Exchange during the year under consideration. As the assessee did not furnish any evidence explaining the source of funds used for such purchase, the

Assessing Officer treated the said amount as unexplained investment under section 69 of the Act and taxed it under section 115BBE. With regard to the sale of equity shares amounting to Rs. 26,83,235/-, the Assessing Officer noted that the assessee had disclosed the same in the return of income filed in response to notice under section 148, wherein short-term capital gain of Rs. 62,297/- was offered to tax. Since no discrepancy was noticed in this regard, no adverse inference was drawn on this issue.

7. Accordingly, the Assessing Officer made additions aggregating to Rs. 69,46,732/- under section 69 of the Act and completed the reassessment determining the total income of the assessee at Rs. 79,67,612/-. The Assessing Officer also initiated penalty proceedings under sections 271(1)(c), 271(1)(b) and 271F of the Act and charged interest under the relevant provisions.

8. Aggrieved by the reassessment order, the assessee preferred an appeal before the learned CIT(A). The learned CIT(A) observed that the appeal was filed with a delay of 492 days. The assessee sought condonation of delay stating that certain communications from the Department were not noticed as they were received in the junk folder of the registered email account and that the delay also occurred due to lack of knowledge regarding the procedure of filing appeal electronically. The assessee also submitted an affidavit explaining that the delay was neither deliberate nor intentional and that the matter had been entrusted to an authorised representative who could not file the appeal in time due to lack of knowledge regarding the e-filing procedure.

9. The learned CIT(A) examined the explanation offered by the assessee and observed that the reasons given were inconsistent and not supported by documentary evidence. The learned CIT(A) further

observed that the assessee had earlier responded to the notice under section 148 by filing return of income and had also sought adjournment during assessment proceedings, which indicated that the assessee was aware of the ongoing proceedings. The learned CIT(A) also noted that the assessee had responded to penalty proceedings subsequent to the assessment order, which further demonstrated that the assessee was aware of the completion of the assessment.

10. The learned CIT(A) held that the explanation that the assessment order was not noticed due to emails going to the junk folder was not acceptable and that the subsequent explanation attributing the delay to the mistake of the authorised representative was also not reliable. The learned CIT(A) observed that the assessee had failed to demonstrate any sufficient cause preventing him from filing the appeal within the prescribed time and that the delay of 492 days was inordinate.

11. The learned CIT(A) relied upon various judicial precedents laying down the principles governing condonation of delay. On the basis of the above reasoning, the learned CIT(A) declined to condone the delay in filing the appeal and consequently dismissed the appeal in limine as barred by limitation, without adjudicating the issues on merits.

12. Aggrieved by the order of the learned CIT(A), the assessee is now in appeal before us and has raised following grounds of appeal:

1. *In the facts and circumstances of the case and in law, the AO erred in reopening of assessment under section 148*
  - a. *Only on the basis of presumption and surmise*
  - b. *Only on the basis of the information flagged in the system (INSIGHT) for A.Y.2016-17 in accordance with the risk management strategy formulated by the board.*

- c. even though the reopening was required to be done by FAO
  - d. The JAO has not made independent inquiry before passing the order u/s 148A(d).
  - e. Mechanically approved
  - f. Without granting an opportunity of personal hearing through video conferencing
2. In the facts and circumstances of the case and in law, the AO erred in passing reassessment order u/s 147 r.w.s 144B without granting an opportunity of personal hearing through video conferencing even though the same is required as per the judgement of Bombay High Court in the case of Chander Arjandas Manwani [2021] 130 taxmann.com 445 (Bombay).
3. In the facts and circumstances of the case and in law, the AO erred in passing reassessment order u/s 147 r.w.s 144B because notices issued by the Learned Officer were not received by the Appellant since the emails were going to Junk folder and the Appellant was not aware of the proceedings in progress and therefore could not reply to the notices.

**Without prejudice to above and alternatively,**

4. In the facts and circumstances of the case and in law, the AO erred in passing the reassessment order u/s 147 r.w.s 144B thereby making an addition of Rs. 58,42,000/- u/s 69 r.w.s 115BBE in respect of immovable property purchased thereby treating the same as unexplained investments for lack of documentary evidence
- a. without appreciating the fact that the Appellant was not required to maintain books of accounts and therefore section 69 is not applicable.
  - b. Also without appreciating the fact that the immovable property is purchased by the Appellant from his income sources and has also taken a loan of Rs. 45,00,000/- from Axis Bank.
  - c. Thereby applying section 115BBE to alleged unexplained investment even though the property is purchased by the Appellant and the payments are made from banking channels.

5. *In the facts and circumstances of the case and in law, the AO erred in passing the reassessment order u/s 147 r.w.s 144B thereby making an addition of Rs. 11,04,732/- u/s 69 r.w.s 115BBE in respect of purchase of equity shares thereby treating the same as unexplained investments for lack of documentary evidence*
- a. without appreciating the fact that the Appellant was not required to maintain books of accounts and therefore section 69 is not applicable.*
  - b. Also without appreciating the fact that equity shares are purchased by the Appellant from his income sources.*
  - c. Thereby applying section 115BBE to alleged unexplained investment even though the equity shares are purchased by the Appellant from NSE and the payments are made from banking channels.*
6. *In the facts and circumstances of the case and in law, the AO erred in charging interest u/s 234A, B, C and D and initiating penalty u/s 271(1)(c), 271(1)(b) and 271F.*
7. *In the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (A) erred in dismissing the appeal only on the basis of delay in filing of appeal and thereby overlooking all the grounds of appeal on merits and also without granting an opportunity of personal hearing thereby violating principles of natural justice.*

13. During the course of hearing before us, the learned Authorised Representative (AR) reiterated the reasons that were earlier placed before the learned CIT(A) for seeking condonation of delay. It was submitted that the communications and notices issued by the Income Tax Department, including the assessment order, were not noticed by the assessee as the emails received from the Department had been diverted to the junk folder of the registered email account and therefore the assessee remained unaware of the completion of the assessment proceedings as well as the requirement of filing the appeal within the prescribed time. The learned AR further submitted that the matter had been entrusted to an authorised

representative for filing the appeal before the learned CIT(A). However, due to lack of familiarity with the electronic filing procedure of appeals on the e-filing portal, the appeal could not be filed within the statutory time limit. It was therefore submitted that the delay in filing the appeal was neither deliberate nor intentional but occurred due to bona fide circumstances. The learned AR accordingly prayed that the delay may be condoned in the interest of justice and the matter may be restored for adjudication on merits after granting reasonable opportunity of being heard to the assessee.

14. The learned Departmental Representative (DR), on the other hand, did not raise any serious objection to the prayer made by the learned AR of the assessee for restoration of the matter for adjudication on merits.

15. We have heard the rival submissions and perused the material available on record including the orders of the lower authorities. The short controversy arising in the present appeal relates to the delay in filing the appeal before the learned CIT(A) and the consequent dismissal of the appeal in limine without adjudicating the issues on merits.

16. The learned CIT(A) noted that the appeal before him was filed with a delay of 492 days beyond the limitation period prescribed under section 249(2) of the Act. The assessee had sought condonation of delay stating that the communications issued by the Department were not noticed as the emails had been diverted to the junk folder of the registered email account and further that the delay also occurred due to lack of knowledge regarding the electronic filing procedure for filing appeal before the appellate authority. The learned CIT(A), however, held that the explanation

offered by the assessee was inconsistent and unsupported by documentary evidence and therefore declined to condone the delay. Consequently, the learned CIT(A) dismissed the appeal in limine as barred by limitation without examining the issues raised in the appeal on merits.

17. While declining the condonation of delay, the learned CIT(A) relied upon several judicial precedents including the decision of the Hon'ble Supreme Court in **Ramlal v. Rewa Coalfields Ltd., AIR 1962 SC 361**, wherein it was held that the cause for delay which could have been avoided by due care and attention cannot constitute sufficient cause within the meaning of limitation provisions. Reliance was also placed on the decision of the Hon'ble Supreme Court in **Perumon Bhagvathy Devaswom v. Bhargavi Amma (2008) 8 SCC 321** wherein the Court observed that the words 'sufficient cause' should receive a liberal construction so as to advance substantial justice when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant. The learned CIT(A) further referred to the decision of the Hon'ble Supreme Court in **Balwant Singh v. Jagdish Singh (2010) 8 SCC 685**, wherein the Hon'ble Court held that even if the term 'sufficient cause' has to receive liberal construction, it must squarely fall within the concept of reasonable conduct of the party concerned. Where the delay is a result of negligence, default or inaction, the courts would be justified in declining condonation of delay. Reference was also made to the decision of the Hon'ble Supreme Court in **Shiv Dass v. Union of India (AIR 2007 SC 1330)** and the decision in **University of Delhi v. Union of India (Civil Appeal No. 9488 of 2019)** emphasizing that the law of limitation cannot be ignored and condonation of delay must be supported by sufficient cause. On the

basis of these decisions, the learned CIT(A) concluded that the delay of 492 days was inordinate and attributable to the negligence of the assessee and therefore refused to condone the delay.

18. Having considered the reasoning of the learned CIT(A), we find that though the delay involved is substantial, the appeal before the learned CIT(A) has been dismissed solely on the ground of limitation without adjudicating the issues raised by the assessee on merits. The assessee has explained that the delay occurred due to the fact that departmental communications were not noticed and further that there was lack of familiarity with the electronic procedure of filing appeal before the appellate authority. During the course of hearing before us, the learned AR reiterated these reasons and prayed that the matter may be restored for adjudication on merits. The learned DR did not raise any serious objection to such prayer.

19. It is well settled that while considering applications for condonation of delay, a pragmatic and justice-oriented approach is required to be adopted so that substantial justice is not defeated on technical grounds. The Hon'ble Supreme Court in **Perumon Bhagvathy Devaswom v. Bhargavi Amma (supra)** has emphasised that the expression "sufficient cause" should receive liberal construction in order to advance substantial justice when the delay is not attributable to deliberate inaction or lack of bona fides. At the same time, the decisions relied upon by the learned CIT(A) emphasize the requirement of diligence on the part of the litigant. Thus, a balance is required to be struck between adherence to limitation provisions and the need to ensure that disputes are decided on merits.

20. In the peculiar facts of the present case, we note that the issues involved in the appeal relate to additions made under section

69 of the Act treating the investments in immovable property and equity shares as unexplained investments. It is further observed that the appeal before the learned CIT(A) has been dismissed in limine on the ground of delay without adjudicating the issues on merits.

21. The assessee had explained before the learned CIT(A) that the delay occurred because the matter was entrusted to the authorised representative for filing the appeal. However, the authorised representative failed to file the appeal within the prescribed time due to lack of familiarity with the electronic filing procedure for filing appeals on the e-filing portal, and an affidavit of the authorised representative was also furnished explaining the circumstances leading to the delay. Thus, the explanation of the assessee indicates that the delay was primarily attributable to the lapse on the part of the authorised representative and not due to any deliberate inaction or lack of bona fides on the part of the assessee.

22. Considering the totality of facts and circumstances of the case, and particularly the fact that the appeal has been dismissed without examination of the issues on merits, we are of the considered view that the cause shown by the assessee constitutes a reasonable explanation for the delay. In order to advance substantial justice and to ensure that the controversy is adjudicated on merits after granting adequate opportunity to the assessee, we are inclined to condone the delay and hold that the issues raised by the assessee require proper examination by the Assessing Officer. Accordingly, in the interest of substantial justice, we set aside the order of the learned CIT(A) and restore the matter to the file of the Assessing Officer for fresh adjudication in accordance with law after providing reasonable opportunity of being

heard to the assessee. The assessee is also directed to extend full cooperation and furnish all necessary details and documentary evidences in support of his contentions.

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

Order pronounced in the open court on 05.03.2026

**Sd/-**  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

**Sd/-**  
**(MAKARAND V MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated 05/03/2026

KRK, Sr. PS

**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.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

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