

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI
MUMBAI**

**BEFORESHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA. No. 7016/MUM/2025
Assessment Year: 2013-14**

Anilkumar Agarwal HUF 206, Shyamkamal Trade Centre, B.N. Agarwal Commercial Complex, 27, Tejpal Road, Vile Parle (E), Mumbai – 400 057	Vs.	Assistant Commissioner of Income Tax, Circle– 25(2), Kolkata
(Appellant)	:	(Respondent)

PAN No. AABHA 0654 D

Present for:

Assessee by : Shri S. M. Bandi
Revenue by : Shri Surendra Mohan, Sr. DR

Date of Hearing : 25.02.2026

Date of Pronouncement : 25.02.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 15.10.2025, impugned herein, passed by Additional /Joint Commissioner of Income Tax (A)-3, Kolkata[in short 'Ld.

Commissioner'] under section 250 of the Income Tax Act 1961 (in short 'the Act') for the Assessment Year (in short 'AY') 2013-14.

2. In this case, the Assessee being aggrieved against the Assessment Order dated 18.03.2016 u/s 143(3) of the Act, whereby three additions/disallowances have been made by the Assessing Officer, preferred First Appeal in physical form on dated 06.06.2016 which has been disallowed by the Ld. Commissioner by way of impugned order, mainly on the reason that there was a delay of 37 days in filing of such appeal on 06.06.2016. The Assessee drew our attention to the copy of Form No.35 which pertains to Appeal filed in physical form on dated 12.04.2016 and therefore has established that though the Assessee has duly filed the Appeal in physical form within the limitation period, however subsequently on this duration of online e-appeal mechanism for First Appeal before the Ld. Commissioner, the Assessee also filed online Appeal on e-file portal on dated 06.06.2016. As the Assessee has preferred the First Appeal within the limitation period in physical form and as subsequently the mechanism for e-filing of Appeal was introduced thus the Assessee also filed online Appeal on e-filing portal of the Commissioner as well, and therefore there was no delay at all, but somehow the Ld. Commissioner held contrary.

3. Further, it is also a fact that the Ld. Commissioner while considering and deciding the Appeal filed by the Assessee though online mechanism on dated 06.06.2016, has not issued any show

cause/notice and/or has not afforded any opportunity of being heard to the Assessee.

4. Though the Ld. DR refuted the claim of the Assessee but not the factual aspect qua filing of Appeal in physical form on 12.04.2016, challenging the Assessment Order as also involved in this case and subsequently in order to follow the online mechanism guidelines for online mechanism also filed Appeal on e-filing portal on dated 06.06.2016. Therefore, it can easily be construed that there was no delay. Even, if there was a delay then also the delay cannot be attributed, as the Assessee has duly filed First Appeal on 12.04.2016 within the limitation period.

5. Thus, in view of the above, the impugned order is set aside and case is remanded to the file of the Ld. Commissioner for decision on merit, suffice to say by affording a reasonable opportunity being heard to the Assessee.

6. The Assessee is also directed to comply with the notices to be issued and file the relevant submissions/documents, without any default.

7. In the result, the Assessee's Appeal is allowed for statistical purposes.

Order pronounced in the open court on 25.02.2026.

**Sd/-
(Jagadish)
Accountant Member**

**Sd/-
(Narender Kumar Choudhry)
Judicial Member**

M. Ranganath Vithal
Sr. Private Secretary.

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