

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

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

ITA. No.6766/MUM/2025

Assessment Year: 2017-18

Deepak Jayantilal Jain, Flat No.501, 5th Floor, Copper Castle, 38/40, Jinabhai Mulji Rathod Marg, Mazgaon, Mumbai – 400010.	Vs.	NFAC/Income Tax Officer 19(1)(1), Dr SS Rao Marg, Parel, Mumbai – 400012.
(Appellant)	:	(Respondent)

PAN No. AMEPJ 9213 A

Present for:

Assessee by : Shri Niraj Punamiya (Virtually Present), Ld. AR.
Revenue by : Shri Annavaram Kosuri (Sr. AR).
Date of Hearing : 02.03.2026
Date of Pronouncement : 02.03.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 16.10.2025, impugned herein, passed by National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax

(Appeals) [in short Ld. Commissioner] u/s 250 of the Income Tax Act, 1961, [in short 'the Act'] for the A.Y. 2017-18.

2. In the instant case, the Assessing Officer vide Assessment Order dated 09.05.2023 u/s. 147 r.w.s. 144 has made the additions of Rs.1,25,000/- and Rs.1,10,00,000/- on account of variation in the market value and actual consideration of the property being income from other sources u/s 50C and 56(2) of the Act, and unexplained investment u/s. 69 of the Act, respectively.

3. The Assessee being aggrieved against the aforesaid additions/disallowances, filed 1st appeal before the Ld. Commissioner however, with a delay of around two (2) months, which was not found satisfactory by the Ld. Commissioner and thus the Ld. Commissioner not only rejected the request of the Assessee for condonation of delay but also the appeal filed by the Assessee on merit.

4. We have given thoughtful consideration to the peculiar facts and circumstances of the case, with regard to the delay. The Assessee before the Ld. Commissioner has contended that because of the constrained hospitalization of Assessee's mother for treatments comprising of Chemotherapy due to cancer, as the Assessee's attention was required towards her mother treatment, which resulted into delay of approximately two months in filing of

First Appeal before the Ld. Commissioner. The reasons stated by the Assessee in our considered view, appears to be genuine but still the Ld. Commissioner adopted the hyper technical approach. Even otherwise, the Ld. Commissioner, while rejecting the prayer for condonation of delay, proceeded with the case of the Assessee on merit, and it is a fact that, despite filing submissions by the Assessee twice, the Ld. Commissioner, failed to consider the same and more or less by holding that the Assessee has failed to produce documentary evidence, dismissed the appeal of the Assessee, on merit as well. Thus, the Ld. Commissioner, eventually condoned the delay.

5. In our considered view the matter needs to be examined afresh on merit, and thus considering the peculiar facts and circumstances for just and proper decision of the case and substantial justice, we are inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, on merit.

6. Thus, the case is remanded to the file of the Ld. Commissioner for decision afresh, on merits of the case.

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

Order pronounced in the open court on 02.03.2026.

**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