

**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. 7206/Mum/2025  
(Assessment Year: 2015-16)**

Noorul Hasan Shaikh 4, Laxmi Bhavan, P.D’Mello Road. Carnac Bunder, Mumbai - 400001	Vs.	ITO- Ward 25(3)(1) Room 118, 1 <sup>st</sup> Floor, Kautilya Bhavan, Bandra Kurla Complex Bandra (East), Mumbai
PAN/GIR No. APAPS5077A		
(Applicant)		(Respondent)

Assessee by	Ms. Dinkle H. Hariya – Advocate
Revenue by	Shri Brajendra Kumar (SR. DR.)

Date of Hearing	12.02.2026
Date of Pronouncement	10.03.2026

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the assessee challenging the impugned order 23.12.2024 passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2014-15. The following grounds are reproduced below:

**“1. THE ORDER IS BAD IN LAW, ILLEGAL AND  
WITHOUT JURISDICTION**

1.1 *In the facts and the circumstances of the case, and in law, the appellate order u/s. 250 of the Income tax Act, 1961 [‘the Act’] framed and passed on 30.09.2025 by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [‘Ld. CIT (A)’] is bad in law, illegal and without jurisdiction, as the same is framed in breach of the statutory provisions of the Act and the scheme and as otherwise also is not in accordance with the law.*

1.2 *Without prejudice to the generality of the above, the appellate order so passed is bad in law, illegal and void as the same is arbitrary and perverse.*

## **2. EX-PARTE ORDER**

2.1 *The Ld. CIT (A) erred in passing the order ex parte.*

2.2 *While doing so, the Ld. CIT (A) failed to appreciate that the non attendance /non-reply was for the reasons not attributable to the Appellant/beyond the control of the Appellant and not deliberate or intentional; and*

2.3 *It is submitted that in the facts and the circumstances of the case, and in law, no such action was called for.*

## **3. REJECTION OF APPLICATION FOR CONDONATION OF DELAY**

3.1 *The Ld. CIT (A) erred in passing the order ex-parte and dismissing the appeal in limine, by purportedly not condoning the alleged delay of 210 days in filing the appeal.*

3.2 *The Ld. CIT (A) further failed to appreciate that the delay, if any, in filing the appeal was not attributable to the Appellant/ beyond the control of the Appellant and not deliberate or intentional.*

3.3 *It is submitted that, in the facts and the circumstances of the case, and in law, no such action was called for.*

## **WITHOUT PREJUDICE TO THE ABOVE:**

## **4. CHALLENGE TO REASSESSMENT**

4.1 The Ld. CIT (A) erred in confirming the action of the A.O, in initiating the reassessment proceeding and framing the assessment of the Appellant by invoking the provisions of section 147 r.w.s. 148A. r.w.s. 148 of the Act.

4.2 While doing so, the Ld. CIT (A) failed to appreciate that:

(1) The case of the Appellant did not fall within the parameters laid down by section 147 r.w.s. 148A, 148, 149 & 151 of the Act;

(ii) The necessary preconditions for initiating the reassessment proceeding and completion thereof were not satisfied.

4.3 It is submitted that in the facts and the circumstances of the case, and in law, the reassessment framed was bad in law, illegal and without jurisdiction.

**WITHOUT PREJUDICE TO THE ABOVE:**

**5. BEST JUDGEMENT ASSESSMENT**

5.1 The Ld. CIT (A) erred in confirming the action of the A.O. in passing the ex parte order u/s. 144 of the Act.

5.2 It is submitted that in the facts and the circumstances of the case, and in law, invocation u/s. 144 of the Act is bad in law.

5.3 Without prejudice, the Ld. CIT (A) failed to appreciate that the alleged non-attendance /non-reply was for the reasons not attributable to the Appellant/beyond the control of the Appellant and not deliberate or intentional.

**6. ADDITION OF RS. 20, 71,000/-U/S. 56(2)(vii)(b) OF THE ACT**

6.1 The Ld. CIT (A) erred in confirming the action of the A.O. in making addition of Rs. 20,71,000/- u/s. 56(2)(vii)(b) of the Act, being difference between the stamp duty value of the property purchased as on the date of registration of the deed (Rs. 90,71,000/-) and the consideration (Rs. 70,00,000/-).

*6.2 While doing so, the CIT (A) erred in not appreciating that the A.O. had:*

*(i) Based his action on surmises, suspicion and conjecture;*

*(ii) Taken into account irrelevant and extraneous considerations;*

*(iii) Ignored relevant material and considerations as submitted by the Appellant;*

*(iv) Erroneously come to the conclusion that the provisions of section 56(2)(vii)(b) were attracted; and*

*(v) Ignoring that the case was covered by the First Proviso to section 56(2)(vii)(b) as the payment for the property was first made on 04.11.2014.*

*6.3 It is submitted that in the facts and the circumstances of the case, and in law, no such addition was called for.*

*6.4 Without prejudice to the above, assuming but not admitting that some addition was called for, the Ld. CIT (A) erred in failing to appreciate that the computation of the addition made by the A.O. was arbitrary, excessive and not in accordance with the law.”*

2. From the records, we noticed that the appeal of the assessee was dismissed by the Ld. CIT(A) on the ground that the same was not filed within the prescribed period of limitation.

3. The order of assessment in the present case was passed on 26.03.2022 and was served upon the assessee on 21.10.2022. Thereafter, the appeal was filed by the assessee before the Ld. CIT(A). However before the Ld. CIT(A), there was a delay of one day on the part of the assessee on account of the fact that the mother of the assessee had expired on 15.10.2022 and she was

busy with the post-death ceremonies. But, the Ld. CIT(A) dismissed the appeal of the assessee by not condoning the delay.

4. After having gone through the records, we find that the assessee has taken a specific stand that the order of assessment was served only on 21.10.2022. The said fact has neither been controverted nor found to be false by the Revenue authorities and was not even properly considered or appreciated. Therefore, calculating the period of limitation from the date of receipt of the assessment order, there was only a delay of one day, for which sufficient cause has already been explained, as the assessee was busy with the post-death ceremonies of her mother.

5. Considering the entire factual position as explained before us and also keeping in view the principles laid down by the Hon'ble Supreme Court in the case of ***Land Acquisition Collector vs. Mst. Katiji & Others (1987 AIR 1353)***, wherein it was held that when ***substantial justice*** is pitted against ***technicalities of non-deliberate delay***, substantial justice has to be preferred, we are of the view that the principle of advancing substantial justice is of prime importance.

6. Hence, considering the explanation put forth by the assessee, which justifiably and properly explains the delay in filing the appeal before the Ld. CIT(A), and construing the

expression “**sufficient cause**” liberally, we are inclined to condone the delay in filing the appeal before the Ld. CIT(A).

7. Since we have condoned the delay in filing the appeal before the Ld. CIT(A), we set aside the order passed by the Ld. CIT(A) and restore the matter back to the file of the Ld. CIT(A) with a direction to adjudicate the grounds raised by the assessee on merits.

8. Before parting, we want to make it clear that our decision to restore the matter back to the file of 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 CIT(A) independently in accordance with law.

9. 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.

10. In the result appeal filed by the assessee is allowed.

Order pronounced in the open court on 10.03.2026

Sd/-

**(PRABHASH SHANKAR)**  
**ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)**  
**JUDICIAL MEMBER**

Mumbai, Dated 10/03/2026

**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