

**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. 4477/MUM/2025
Assessment Year: 2018-19**

Bishnupriya Bijaychandra Mahanty
204 Plot 13/A Wing Siddhivinayak
CHS, Sector 6, Ghansoli, Navi
Mumbai 400701,
Authroised person Add: 218, Ratna
high street, Naranpura, Ahmedabad-
380013

PAN NO. BTDPM 7308 A
Appellant

ITO, Ward 28(1)(1), Mumbai
IT-Office, Vashi Railway
Station Building,
Navi Mumbai- 400703

Vs.

Respondent

Assessee by	:	Mr. Pritesh L. Shah (Virtually appeared)
Revenue by	:	Mr. Swapnil Choudhari, Sr. AR
Date of Hearing	:	26/02/2026
Date of pronouncement	:	13/03/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 01.08.2025 passed by the Ld. Commissioner of Income-tax-National Faceless Appeal Centre, Delhi [in short 'the Ld.CIT(A)] for assessment year 2018-2019, raising following grounds:-

"1. *The learned Commissioner of Income Tax (Appeals) erred both in facts and in law in upholding the addition of ₹1,21,00,254/- under Section 69 of the Income Tax 1 Act, 1961 as unexplained investment, without appreciating that the said amount was jointly*



invested by the appellant along with her husband and son towards purchase of an immovable property.

2. The learned Commissioner of Income Tax (Appeals) has erred both in facts and in law in sustaining the addition of 21,21,00,254/- under Section 69 of the Income Tax Act, 1961, treating the same as unexplained investment, without appreciating that the said amount represents cumulative payments made over multiple Assessment Years pursuant to a duly executed Agreement to Sale dated 21.02.2018 for the 2 purchase of an immovable property. The learned Commissioner of Income Tax (Appeals), however, erroneously aggregated the entire investment and brought it to tax in a single Assessment Year, ignoring the actual year-wise flow of payments and the supporting evidences on record. Such action is contrary to the settled principles of law and facts, rendering the addition untenable and liable to be deleted in its entirety.

3. Whether, on the facts and in the circumstances of the case, the Learned A.O is justified in law in initiating proceeding under section 148A(d) in appellant's case which is passed in contravention to first proviso to sub section 1 of section 149 of the Act which bars the reopening of assessment for which notice U/S 148 was Issued? In view of the above, Appellant bonafide submits that the present re-assessment proceedings is needs to be withdrawn/ dropped being time barred in accordance to section 149 of the Act

4. Learned CIT(A) failed to follow the CBDT instruction 4767 dated 04-10-1974 with reference to over-pitched assessment to be avoided

5. The learned Commissioner of Income Tax (Appeals) has erred in law and on facts in upholding the levy of interest under section 234A of the Income Tax Act, 1961, amounting to 262,29,015/-, as computed by the Assessing Officer from the due date of filing return under section 139(1) till the date of passing the assessment order. The appellant submits that the return in the present case was filed in response to a 5 notice issued under section 148, and therefore, as held by the Hon'ble ITAT Ahmedabad in the case of Indu Rohitkumar Pathak vs. ITO (ITA No. 552/Ahd/2022), the levy of interest under section 234A, if any, should be restricted only from the date of issue of notice under section 148 and not from the due



date under section 139(1). Accordingly, the interest levied is excessive, unjustified, and liable to be deleted or suitably reduced.

6. The Ld. CIT(A) and Ld. AO erred in law and on facts by issuing the Show Cause Notice under Section 148 of the Act, despite the fact that the Jurisdictional Assessing Officer, Ward 28(1)(1) Mumbai, lacks the authority to issue such notice. This position is supported by the judgment of the Hon'ble High Court of Bombay in Venus Jewel vs. Assistant Commissioner of Income-tax [2024] 164 taxmann.com 414, wherein it was held that the Jurisdictional AO has no power to issue a notice under Section 148. Accordingly, the entire assessment is liable to be quashed.

Your appellant prays for leave to add, to alter and/or to amend the above ground before the final hearing of the appeal.”

2. The Registry has noted a delay of **253 days** in filing this appeal. The Assessee has moved an application for condonation, supported by an affidavit detailing a sequence of personal tragedies. The Assessee, a senior citizen not conversant with digital interfaces, suffered the sudden and untimely demise of her only son during the relevant period. The relevant part of the affidavit is reproduced as under:

“03. That the applicant is preferring the present appeal against the order dated 01.08.2024 passed by the Hon'ble Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, under Section 250 of the Income-tax Act, 1961 for the A.Y. 2018-19.

04. The E-mail ID 'bijaychandra204@gmail.com', which belongs to the husband of the appellant, Mr. Bijaychandra Mahanty, was registered on the Income Tax e-filing portal. The appellant, being not well-versed with technology, had relied on her husband for handling online tax matters and communications.

05. The appellant humbly submits that she and her husband are aged person and not conversant with digital modes of communication. Her



husband, is also not tech-savvy and could not appreciate the significance of the email id. As a result, the appellant remained unaware of the order and the timelines for appeal.

06. Consequently, due to this genuine and unavoidable lack of digital awareness and understanding, the appellant remained completely unaware of the receipt of the appealable order and, crucially, the statutory timelines for filing the appeal. Had we been aware, we would have promptly taken the necessary steps.

PERSONAL TRAGEDY LEADING TO EMOTIONAL AND MENTAL HARDSHIP

07. The appellant's only son, Mr. Tushar Mahanty, was undergoing treatment for a serious medical condition that required continuous care, including frequent hospital visits and periodic hospitalization. During this period, the appellant was entirely occupied with caregiving responsibilities, which placed significant physical, emotional, and mental strain on her. As a result, she was unable to attend to any legal or financial matters.

08. On 08th March 2025, the appellant suffered a profound personal tragedy with the sudden demise of her only son, Mr. Tushar Mahanty, who collapsed unexpectedly in the washroom and passed away. The incident was entirely unforeseen and caused an immense emotional and psychological impact on the appellant and her family.

09. Following the untimely death of her son, the appellant and her husband were in a state of deep emotional distress. They were engaged in performing religious rites and coping with the loss, which left the appellant completely incapacitated from undertaking any personal, legal, or financial obligations during that period.

10. In view of the above facts and circumstances, there has been a delay of days in filing the appeal. The delay has occurred solely due to unavoidable hardship, emotional trauma, and lack of technical knowledge. It is respectfully submitted that the delay is neither deliberate nor attributable to any negligence or willful inaction on the part of the appellant.”

3. We have heard the rival submission of the parties on the issue of condonation of delay in filing the appeal. It is a settled principle



of law, as enunciated by the Hon'ble Supreme Court in *Collector, Land Acquisition v. Mst. Katiji*, 1987 AIR 1353, 1987 SCR (2) 387, 1987 SCC (2) 107) that when "substantial justice" and "technical considerations" are pitted against each other, the former must prevail. The expression "sufficient cause" must receive a liberal construction to advance the cause of justice. In view of the emotional trauma and the digital divide faced by the Assessee, we find the delay was neither deliberate nor negligent. The assessee was prevented by way of sufficient cause in filing the appeal on time, as there are bonafide reasons for the delay, accordingly, we condone the delay in filing the appeal and admit the same for adjudication.

4. Briefly stated facts of the case are that the assessee had not filed its return of income for the year under consideration. In view of the information available on the insight portal of the income tax department that assessee purchased a immovable property for a value of Rs. 1,14,15,254/-, the ld Assessing officer following the due process under amended provision of section 148 of the Income-tax Act,1961 (in short the Act) issued notice u/s. 148 of the Act on 07.04.2022 directing the assessee to file return of income. In response, the assessee filed return of income on 18.01.2024 disclosing total income of Rs. 2,95,315/-. Thereafter the case of sent to National Faceless Assessment(NAFC) unit and assessment proceedings were commenced. The assessee was asked to explain



the source of investment in the property but no details were filed by the assessee. Therefore, the Ld.AO considered the investment made by the assessee in property along with stamp duty value aggregating to Rs. 1,21,00,254/- as unexplained investment u/s 69 of the Act. On further appeal, Ld. CIT(A) also confirmed the addition observing as under:

“4.2 During the course of appellate proceedings, it is submitted that the amount of Rs. 1,14,15,254/- had invested in purchase of immovable property and the stamp duty value of Rs. 6,85,000/-, there are 3 co-owners of the property purchased i.e. Mrs. Bihnapriya Mahanty, Mr. Bijaychandra Mahanty (Husband) and Mr. Tushar Mahanty (Son) during the A.Y. 2018-19. The total payment regarding the purchase of immovable property made proportionally by 3 coowners.

4.3 I have gone through the grounds of appeal, statement of facts assessment order and the submissions of the appellant. It is simply held by the appellant that the property was purchased by 3 co-owners viz appellant, her husband and her son. The appellant has filed a statement showing the payments made to towards purchase of flat. it is seen that the appellant had paid Rs. 85,26,000/- including GST and her husband Sri Bijaychandra Mahanty has paid Rs. 23,22,200/- incl GST. Her son mr. Tushar Mahanty had stated to have been paid of Rs. 1,80,000/-.

4.3.1 It is seen from the computation of income filed along with the return of income filed in response to notice under sec. 148 for the A.Y. 2018-19 that the appellant is having income from other sources at Rs. 3,05,123/-. Under the circumstances, it is not established how she has mobilized the payments of Rs. 85,26,000/- to purchase an immovable property. Further, the appellant has not filed any ITR or computation of income in the case of Sri Bijaychandra Mahanty and Mr. Tushar Mahanty to establish the creditworthiness of these co-owners.

4.3.2 In the appellate proceedings, the burden of proof always lies on the appellant to rebut the decision of the Assessing officer with verifiable documentary evidence. In the instant case the appellant failed to produce the cogent explanation duly supported by corroborative documentary evidence and proofs to establish the genuineness of the payments made by all the 3 coowners to purchase the immovable property of Rs. 1,21,00,254 In view of the above it is held that the AO correctly held that the assessee failed to discharge the onus vested on her by not filing



necessary explanation of source of cash with sufficient documentary evidence. Therefore, the additions made by the AQ are confirmed is 69 of the Act as the source of which remain unexplained and unsubstantiated. Ground No. 1 of this appeal is dismissed.”

5. Before us learned counsel for the assessee filed a paper book containing pages No. 1 to 328. Before us learned counsel for the assessee submits that property in dispute was purchased by assessee along with her husband and son and investment has been made by all the three family members, which was spread over past many years. Ld. Counsel referred to the paper book pages explaining the year wise payment made to the builder along with bank statement of all the three family members. The Ld. counsel also referred to the legal ground challenging the validity of the re-assessment but we find that submissions regarding source of investment were not filed before either the Ld. CIT(A) or the Assessing officer, therefore all those documents are in nature of the additional evidence.

5.1 Having considered the submission of the assessee, we are of opinion that documentation of assessee purportedly demonstrates:

- **Co-ownership:** That the property was a joint investment by three family members.
- **Temporal Spread:** That payments were not concentrated in a single year but were spread across multiple prior years, contrary to the AO's "telescoped" addition.



- **Banking Channels:** Year-wise payment schedules corroborated by the bank statements of all three family members.

5.2 These documents were not available to the lower authorities. Before us the assessee has requested to take those documents on record as additional evidence. As above documents go to the very root of the matter and are essential for a just decision, we admit them as **Additional Evidence** under Rule 29 of the ITAT Rules.

5.3 Adhering to the principles of *Audi Alteram Partem*, the Revenue must be afforded an opportunity to verify these fresh claims. Furthermore, the Assessee has raised significant jurisdictional grounds—including the authority of the JAO to issue notice u/s 148 and the bar of limitation u/s 149.

5.4 In the interest of justice and to ensure a "speaking order" on both facts and law, we deem it fit to vacate the impugned order and restore the matter to the file of the Assessing Officer. The assessee is at liberty to raise any legal ground challenging the validity of the re-assessment before the Ld Assessing officer. The AO is directed to (i) Conduct a *de novo* verification of the source of investment based on the additional evidence provided, (ii) Adjudicate upon the **legal challenges** regarding the validity of the re-assessment notice and (iii) decide the other issues raised by the assessee in accordance with law.



6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 13/03/2026.

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

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

Mumbai;
Dated: 13/03/2026
Disha Raut, Stenographer

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai