

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "J(SMC)" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
ITA No. 8978/MUM/2025(AY:2013-14)**

Jatin Dhansukh Khatri, J/204 Raj Gulmohar Bldg No.1 Near St. Xavier School Unitech Westend Virar (West) Thane-401303.	vs.	ITO Ward-42(2)(3), Kautilya Bhavan, Mumbai-400051.
PAN/GIR No: AHGPK2461A		
(Appellant)		(Respondent)

Appellant by	Shri Vijay Shah
Respondent by	Shri Aditya Rai (SR DR)
Date of Hearing	12.02.2026
Date of Pronouncement	09.03.2026

ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal filed by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [in short, 'CIT(A)'], dated 17.09.2025 for the assessment year (AY) 2013-14.

2. The grounds of appeal raised by the assessee are as under:

"The CIT Appeal had not given proper opportunity of being heard to represent the case even though there was a reasonable cause for filing the appeal and confirming the addition of Rs. 10,57,890/-.

2) The Ld. CIT Appeal has not decided the appeal on merit only the reason that there is a delay in filing the appeal."

3. Facts of the case in brief are that the assessee did not file his original return of income for the AY 2013-14. Based on the information available with the department, the case was reopened u/s 147 by issuing notice u/s. 148 of the Act dated 29.03.2017. The assessee filed return of income in response thereto on 24.10.2017. The assessee filed some details, which were not found to be complete and a show cause notice was issued on 22.12.2017. However, nobody appeared in response to the said notice. Therefore, the AO passed order u/s 144 rws 147 of the Act on 28.12.2017 by making additions of Rs. 10,57,890/-. He, however, allowed deduction under Chapter VIA of Rs. 30,000/- and determined total income at 10,27,890/-.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A) on 02.04.2021 against the assessment order u/s 144 rws 147 dated 28.12.2016. The CIT(A) dismissed the appeal by not condoning the aforesaid delay of 1156 days.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The Ld. AR of the assessee submitted that there was no delay in filing appeal before the CIT(A). The assessee had, in fact, filed a revision petition u/s 264 of the Act dated 07.12.2018 before the PCIT, who rejected the said revision petition vide order u/s 264 of the Act dated 13.03.2021. The PCIT referred to the decision of the Hon'ble Karnataka High Court in case of Nataraju (HUF) vs PCIT (91

taxmann.com 467) which held that revision u/s 264 of the Act cannot be treated as regular remedy bypassing regular remedy of appeals. The PCIT, therefore, rejected the revision petition. In view of the order of PCIT dated 13.03.2021, the assessee filed appeal before CIT(A) on 28.03.2021, which was within 30 days from the order of PCIT. However, the CIT(A) has not considered the order of the PCIT u/s 264 of the Act and dismissed the appeal of the appellant. The Ld.AR, therefore, submitted that there is no delay in filing appeal before CIT(A) and the appellant should be given fresh opportunity of being heard before the CIT(A).

6. On the other hand, the Ld. Sr. DR of the revenue has supported the order of the CIT(A). He would, however, have no objection if the matter is set aside to the file of CIT(A) for fresh adjudication on merit.

7. We have heard both parties on this preliminary issue of condonation of delay. The assessment order was passed u/s 144 rws 147 of the Act on 28.12.2017, against which the assessee filed revision petition before the PCIT, which was dismissed by order u/s 264 of the Act dated 13.03.2021. In the revision order, the PCIT referred to the decision of Hon'ble Karnataka High Court in case of Nataraju (HUF) (supra), where it was held that revision u/s 264 of the Act cannot be treated as regular remedy bypassing regular remedy of appeals. Subsequently, the assessee filed appeal before CIT(A) on 28.03.2021, which was within 30 days from receipt of order of the PCIT. Hence, there was "sufficient cause" for the delay in

filing the appeal before CIT(A) in terms of provisions of section 249(3) of the Act. Both parties have agreed during the hearing that the matter may be set aside to the file of CIT(A) for fresh adjudication on merit. Therefore, in interest of justice, the CIT(A) is directed to condone the delay and decide the appeal on merit after granting adequate and reasonable of opportunity of being heard to the assessee. The assessee is directed to be vigilant and file submission and details by not seeking adjournment without valid reason. The ground is allowed for statistical purposes.

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

Order is pronounced on 09.03.2026.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(BIJYANANDA PRUSETH)
ACCOUNTANT MEMBER

*Aniket Chand; Sr. PS
MUMBAI
Date: 09.03.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar
ITAT, MUMBAI