

**IN THE INCOME-TAX APPELLATE TRIBUNAL, MUMBAI "SMC" BENCH, MUMBAI  
BEFORE SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER  
ITA No. 7175/MUM/2025 (AY:2020-21)**

Sudhir Namdev Kadam, 501/1/A Wing Panchasheel CHS, DR E Moses Road, Worli Naka, Mumbai, Mumbai, Worli S.O 400018.	<b>vs.</b>	ITO Ward 42(3)(4) Kautilya Bhavan, Mumbai-400051.
<b>PAN/GIR No: AQYPK0373Q</b>		
(Appellant)		(Respondent)
<b>Appellant by</b>	Shri Prateek Jain	
<b>Respondent by</b>	Ms. Deepika Arora (SR DR)	
<b>Date of Hearing</b>	04.03.2026	
<b>Date of Pronouncement</b>	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 [in short, 'CIT(A)'], dated 08.09.2025 for the assessment year (AY) 2020-21.

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

*"1. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in dismissing the appeal on the ground of delay in filing, without appreciating that the assessee had demonstrated sufficient and reasonable cause for such delay.*

*2. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in rejecting the application for condonation of delay in filing the appeal as per reasons mentioned in the impugned order.*

*3. On the facts and circumstances of the Appellant's case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in reopening the assessment assuming escapement of income based on incomplete and incorrect information, and in initiating reassessment without complying with the mandatory provisions*

*of Section 148A, thereby rendering the assessment order passed under section 147 r.w.s. 144 r.w.s. 144B as bad in law.*

*4. On the facts and circumstances of the Appellant's case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in issuing an invalid show-cause notice under section 148A(b) and passing the order under section 148A(d) on the same day as the notice under section 148, thereby violating the statutory requirement of granting a minimum period of 7 days to respond.*

*5. On the facts and circumstances of the Appellant's case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in completing the assessment under section 144, despite the fact that the assessee was never validly served and no reasonable or effective opportunity of being heard was granted.*

*6. On the facts and circumstances of the Appellant's case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in relying solely on the employer's response to notice under section 133(6) without corroborating the same or giving opportunity to the assessee to respond.*

*7. On the facts and circumstances of the Appellant's case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in disallowing the exemption under section 10(13A) amounting to Rs. 5,20,427/- towards House Rent Allowance, despite the assessee having furnished sufficient supporting evidence such as rent receipts and declarations submitted to the employer and/or available during the assessment proceedings.*

*8. On the facts and circumstances of the Appellant's case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in not granting the deduction of Rs. 2,00,000/- under section 24(b) of the Income-tax Act, 1961 towards interest on housing loan, despite the appellant being eligible and willing to furnish the housing, loan interest certificate.*

*9. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in not granting deduction under section 80C amounting to Rs. 1,50,000/- towards employee contribution to provident fund, LIC premium, and tuition fees, which were evident from Form 16 and/or verifiable from the employer's confirmation.*

*10. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in not allowing the deduction under section 80D amounting to Rs. 48,807/- towards medical insurance premium paid by the assessee, which is a legitimate claim under Chapter VI-A.*

*11. On the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in confirming the action of the Ld. AO in ignoring the TDS credit available in Form 26AS and Form 16 while computing the tax demand.*

*12. The appellant craves leave to add, amend, alter or delete any of the above grounds and all grounds are without prejudice to one another.*

3. Facts of the case, in brief, are that the assessee did not file his return of income for the AY 2020-21. Subsequently, the case was reopened u/s 147 and

notice u/s 148 of the Act was issued on 06.03.2024. The assessee did not file return even in response to notice u/s 148 of the Act. As per the information with the AO, the assessee had received salary of Rs.28,61,685/- during the year under consideration. The AO issued various notices u/s 148, 142(1), 144 of the Act as well as show cause notice, but there was no compliance. Hence, the order u/s 147 r.w.s. 144 r.w.s. 144B of the Act was passed on 06.08.2024 determining total income at Rs.28,61,685/-.

4. Aggrieved by the order of AO, the assessee filed appeal before the CIT(A). The appeal was filed late by 175 days. The reasons for condonation of delay in Form No.35 was that the delay occurred due to circumstances beyond control of the assessee. The assessment order and notices were neither delivered at the updated address nor communicated in the correct email id. The assessee became aware only upon logging into the income tax portal subsequently. The CIT(A) verified the record and found that the assessment order was issued and served on the appellant's email id and accordingly, plea of assessee that the order were sent to an outdated email id was factually incorrect. Further, the same email id is mentioned in Form 35 itself. Therefore, relying on various decisions of the Hon'ble Courts, the CIT(A) held that the appellant has failed to prove beyond doubt that he has acted diligently and was not guilty of negligence. Accordingly, the delay was not condoned and the appeal was dismissed.

5. Aggrieved by the order of CIT(A), the assessee filed appeal before the Tribunal. The Ld. AR submitted that the delay was not inordinate and was rather

very short delay of 175 days only. He submitted that immediately upon knowing the assessment order, the assessee filed the appeal before the CIT(A). He submitted that the delay was neither deliberate nor intentional. He submitted that all the details are available with the assessee and in the interest of justice, one more opportunity may be granted to the appellant to plead the case on merit. He has relied on the decision in case of Collector Land Acquisition vs. Mst. Katiji & Ors. 1987 AIR 1353 (SC) and submitted that there was sufficient cause for the delay in filing appeal.

6. On the other hand, the Ld. Sr. AR of the revenue submitted that bench may decide the matter as it thinks fit.

7. We have heard both parties on the preliminary issue of condonation of delay and perused the materials placed on record. It is not in dispute that there was delay of 175 days in filing the appeal before the CIT(A). The CIT(A) did not condone the delay by holding that the assessee did not act diligently and was guilty of negligence. On the other hand, the appellant submitted that the delay was not deliberate and intentional and it was beyond the control of the appellant and he took immediate step to file appeal on realizing that assessment order has already been passed. We find that the assessment order was ex parte and therefore, the explanation of the assessee that he was not aware of the fate of the assessment order cannot be out rightly rejected. Considering the entire factual position as explained before us and keeping in view the principles laid down by the Hon'ble Supreme Court in case of Mst. Katiji & Ors. (supra), where it

was held that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay, we direct the CIT(A) to condone the delay subject to payment of cost of Rs.10,000/- (Rs.10,000/-) to the Prime Minister's National Relief Fund within 30 days from receipt of this order. Subject to such payment, the CIT(A) shall condone the delay and decide the matter on merits in accordance with law after granting adequate and reasonable opportunity of being heard of the assessee. The grounds are allowed for statistical purpose.

8. Since we have set aside the order of CIT(A) and remanded it to his file for fresh adjudication, the other grounds are academic in nature and do not require adjudication.

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

Order is pronounced on 09.03.2026.

**Sd/-**  
**(RAHUL CHAUDHARY)**  
**JUDICIAL 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

**Sd/-**  
**(BIJYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

By Order  
Assistant Registrar  
ITAT, MUMBAI