आयकर अपीलीय अधिकरण "सी" न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
CHENNAI BENCHES "C" :: CHENNAI

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI MANU KUMAR GIRI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.3985 & 3986/CHNY/2025
निर्धारण वर्ष / Assessment Years: 2013-14 & 2014-15

Vimala, No.16, 2nd Cross Perumal Raja Garden, Reddiarpalayam, Pondicherry – 605010.	Vs	Income Tax Officer, Ward-5, Puducherry.
PAN: ACPPV7834C		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Mr. N. Arjun Raj – Advocate
Revenue by	Ms. R Anitha – Addl.CIT
Date of hearing	18/02/2026
Date of pronouncement	27/03/2026

आदेश/ ORDER

PER INTURI RAMA RAO, AM :

These two appeals filed by the Assessee directed against the separate orders of The Learned Commissioner of Income Tax(Appeal)[NFAC], Delhi dated 18.03.2025 & 19.02.2025 passed under section 250 of the Income Tax Act, 1961 for the A.Y.2013-14 & 2014-15 respectively.

2. Since identical facts and issues are involved in both these appeals, these appeals were heard together and disposed of by this common order. For the sake of clarity and convenience the facts relevant in the ITA No.3985/CHNY/2025 for the Assessment Year 2013-14 are stated herein:

3. The Assessee in ITA No.3985/CHNY/2025 raised the following grounds of appeal

> *"1. The order of the NFAC, Delhi dated 18.03.2025 vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1074643494(1) for the above-mentioned Assessment Year is contrary to law, fact and in circumstances of the case.*
>
> *2. The NFAC, Delhi erred in dismissing the appeal ex-parte and ought to have appreciated that any order passed in gross violation of principles of natural justice should be reckoned as nullity in law.*
>
> *3. The NFAC, Delhi failed to appreciate that the provisions of Section 250(6) of the Act were not followed in passing the impugned order and hence ought to have appreciated that ex-parte order under consideration was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.*
>
> *4. The NFAC, Delhi erred in impliedly confirming the assumption of jurisdiction under Section 147 of the Act and consequently erred in impliedly confirming the passing of the re-assessment order under Section 147 of the Act without assigning proper reasons and justification.*
>
> *5. The NFAC, Delhi failed to appreciate that the re-assessment order was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.*
>
> *6. The NFAC, Delhi failed to appreciate that the assumption of jurisdiction under Section 147 of the Act was without sanction of law and ought to have*

appreciated that the consequential re-assessment order accordingly should be reckoned as bad in law.

7. The NFAC, Delhi failed to appreciate that having not followed the prescription of law/procedure for framing the re-assessment, the consequential re-assessment order passed should be reckoned as nullity in law for want of jurisdiction.

8. The NFAC, Delhi erred in sustaining the addition of Rs. 19,00,000/-being the value of the immovable property purchased by the appellant during the assessment year under consideration presumably in terms of the deeming provisions of the Act in the computation of taxable total without assigning proper reasons and justification.

9. The NFAC, Delhi failed to appreciate that deeming provisions of the Act had no application to the present facts and in circumstances of the case and ought to have further appreciated that the pre-requisite conditions required for making an addition in terms of deeming provisions of the Act were absent in the present case, there by negating the findings in relation there to.

10. The NFAC, Delhi failed to appreciate that having not independently examined the nature and source for the immovable property purchased by the appellant, the consequential sustenance of the entire disputed addition as income of the appellant should be reckoned as bad in law.

11. The NFAC, Delhi failed to appreciate that the entire re-computation of taxable total income was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

12. The NFAC, Delhi failed to appreciate that having not adhered to the prescription of faceless regime, the consequential re-assessment and appellate order passed should be reckoned as bad in law.

13. The NFAC, Delhi failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.

14. The Appellant craves leave to file additional grounds/arguments at the time of hearing."

4. Briefly the facts of the case are that the appellant is an individual. The Return of income for the Assesment Year 2013-14 was filed on 03.09.2013 disclosing income of Rs.3,19,260/-. Subsequently, based on the information available with the Income Tax Department that the appellant had purchased immovable property for a consideration of Rs.19,00,000/- vide sale deed no.5721/2012 dated 21.12.2012 and the consideration was paid in cash, the Assessing Officer formed the opinion that the income got escaped assessment from tax. Accordingly, the Assessing Officer issued a notice u/s.148 on 31.03.2021. The appellant neither complied with the notice u/s.148 nor the notice u/s.142(1) of the Income Tax Act, 1961. In the circumstances, e-Assessment Unit of the Department had proceeded with the framing of best judgement assessment order vide order dated 21.03.2022 passed u/s.147 r.w.s 144 read with section 144B of the Act, at a total income of Rs.22,19,260/-. While doing so, the Assessing Officer made addition of Rs.19,00,000/- on account of unexplained sources for purchase of immovable property.

5. Being aggrieved by the above assessment order, an appeal was preferred before the ld.CIT(A) who had dismissed the appeal in *limine* for non-prosecution without entering into the merits of the case.

6. Being aggrieved, the appellant is in appeal before us in the present appeal.

7. At the outset, we find that there is delay in filing the present appeal before us by 209 days. The appellant filed an Affidavit seeking the condonation of delay on the ground that husband of the appellant, who was handling the tax matters of the appellant was undergoing series of medical treatment. As a result, he could not follow up with the Tax Practitioner who was entrusted the job of filing of appeal.

8. The averments made in the Affidavit seeking the condonation of delay in filing appeal before us remains uncontroverted by the ld.Sr.DR. The Hon'ble Supreme Court in the case of M.Kalappa Sethi Vs. M.V.Laxmi Narain Rao AIR 1973 SC 627, it was held that an uncontroverted affidavit shall be taken as an affidavit on fact. Therefore, in our considered opinion since the appellant was prevented from filing of appeal in time on account of

factors which are beyond his control, this would constitute a reasonable, sufficient cause for delay. Therefore, the delay is condoned and the appeal is admitted for adjudication on merits.

9. We heard the rival submissions and perused the material available on record. At the outset, we also find that ld.CIT(A) issued notices through ITBA Portal. In our considered opinion, it is not a valid method and manner of service of notice as specified under the provisions of section 282(1) of the Income-tax Act, 1961 Act read with Rule 127(1) of the Income-tax Rules, 1962. Therefore, it is crystal clear that the notices were not served upon the appellant by the ld.CIT(A). To fortify our view, we would like to make reference to a decision rendered by the Hon'ble Punjab & Haryana High Court in the case of *Munjal BCU Centre of Innovation and Entrepreneurship Vs. CIT (Exemptions) (2024) 463 ITR 560 (P&H),* wherein the Hon'ble High Court after making reference to provisions of 282(1) held that service of notice through ITBA portal is not valid service and remanded the matter to AO for *denovo* disposal of case. The relevant paragraphs of the judgment are reproduced below :

> *"7. We are afraid that we cannot subscribe to the submissions as advanced by the learned counsel for the Revenue-respondent. The*

provisions of section 282(1) of the Act of 1961 and rule 127(1) of the Income-tax Rules, 1962 provides for a method and manner of service of notice and orders which read as follows :

. . . . . .

. . . . . .

8. In view of the above, it is essential that before any action is taken, communication of the notice must be done in terms of the provisions as enumerated hereinabove. The provisions do not mention communication to be "presumed" by placing notice on the e-portal. A pragmatic view has to be adopted always in these circumstances. An individual or a company is not expected to keep the e-portal of the Department open all the time so as to have knowledge of what the Department is supposed to be doing with regard to the submissions of forms etc. The principles of natural justice are inherent in the income-tax provisions and the same are required to be necessarily followed.

9. Having noticed as above, this court is of the firm view that the petitioner has not been given sufficient opportunity to put up its please with regard to the proceedings under section 12A(1)(ac)(iii) of the Act of 1961 and as it was not served with any notice. Therefore, he would be entitled to file his reply and the Department would of course be entitled to examine the same and pass a fresh order thereafter.

10. In view of the above, the writ petition is allowed and the order dated January 16, 2023 (annexure P-5) is quashed and set-aside. The Department would provide an opportunity of hearing to the petitioner and

> *they will also allow the petitioner to appear personally for the purpose and pass a speaking order independent of the order passed earlier by them on January 16,2023. The same shall be done expeditiously provided the petitioner file his reply within a period of three weeks."*

10. In view of the above legal position, we are of the considered opinion that proper notice(s) of hearing were not served upon the appellant by the ld.CIT(A). Therefore, we are of the considered opinion that in the interest of justice, the matter should be remitted back to the file of ld.CIT(A) for *denovo* adjudication after affording reasonable opportunity to the appellant, in accordance with law.

11. Accordingly, appeal filed by the assessee in ITA No.3985/CHNY/2025 is partly allowed for statistical purpose.

ITA No.3986/CHNY/2025

12. We find that the identical facts and issues are involved in assessee's appeal bearing Appeal No.3986/CHNY/2025 for A.Y.2014-15 also. Accordingly, our findings given above in Appeal No.3985/CHNY/2025 for A.Y 2013-14 shall apply *mutatis mutandis* to this appeal in ITA No.3986/CHNY/2025 for A.Y 2014-15 also. Therefore, for the similar

reasons stated therein, this appeal in ITA No.3986/CHNY/2025 for A.Y 2014-15 remit the matter back to the file of ld.CIT(A) for adjudication of the issues in appeal on merits after affording an opportunity of being heard to the appellant.

13. Accordingly, appeal filed by the assessee in ITA No.3986/CHNY/2025 is partly allowed for statistical purpose.

14. To sum up, both appeals of the assessee are partly allowed for statistical purpose.

Order pronounced in the open Court on 27th March, 2026.

Sd/-	**Sd/-**
(MANU KUMAR GIRI)	**(INTURI RAMA RAO)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Chennai; दिनांक / Dated : 27th March, 2026

SGR, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT Chennai/Madurai/Coimbatore/Salem.
4. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण, "सी" बेंच, चेन्नई/ DR, ITAT Chennai.
5. गार्ड फ़ाइल / Guard File.