

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
AND
SHRI. MAKARAND VASANT MAHADEOKAR, AM**

ITA No.8494/Mum/2025
(Assessment Year: 2017-18)

Fahim Ahmed Iqbal Ahmed Sharif 49, 2/4 Shivaji Nagar, CST Road, Chembur, Mumbai – 400071.	Vs.	Income Tax Officer, Ward 27(1)(4), Mumbai
PAN/GIR No. BCNPS0235D		
(Assessee)	:	(Respondent)

Assessee by	:	Shri Aditya Ramchandran
Respondent by	:	Shri Nayanjyoti Nath (SR. AR)

Date of Hearing	:	09.03.2026
Date of Pronouncement	:	30.03.2026

ORDER

PER SAKTIJIT DEY, VICE PRESIDENT:

This is an appeal by the assessee against order dated 17.01.2025 of National Faceless Appeal Centre, Delhi ('ld. CIT(A)' for short), passed u/s. 250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2017-18.

2. Before we proceed to deal with the appeal, it is necessary to observe, present appeal has been filed by the assessee with a delay of 253 days. Explaining the reasons for delay. Learned Counsel submitted, the order of the First Appellate Authority was served on the assessee neither through electronic mode or physically. He submitted, the assessee could come to know about the disposal of the appeal by First Appellate Authority only when he found it while randomly scanning through the Income Tax Department portal. He further submitted, during the relevant period, assessee's wife



was undergoing significant medical issues, which also kept the assessee busy. Thus, learned Counsel submitted, the delay in filing the appeal was not deliberate but because of bonafide reasons. Therefore, he prayed for condonation of delay. Learned Departmental Representative, while opposing condonation of delay, submitted that the reasons shown by the assessee are general and vague in nature.

3. Having considered rival submissions and perused the materials on record. We are satisfied that delay in filing the appeal was due to the reasonable cause. Hence, we are inclined to condone the delay and admit the appeal for adjudication on merits.
4. Though, the assessee has raised multiple grounds, however, at the time of hearing, the limited grievance of the assessee as put forward, by learned Counsel was with regard to *ex parte* disposal of appeal by the First Appellate Authority without providing reasonable opportunity of being heard. Elaborating further, learned Counsel submitted that the hearing notices were communicated by the First Appellate Authority to a different address which was not provided by the assessee in the memorandum of appeal. Thus, he submitted, the assessee never received the hearing notices. He submitted, since, the assessee did not get any reasonable opportunity to contest the additions made by the Assessing Officer, the order of the First Appellate Authority may be set aside and the issues may be restored to the Assessing Officer for fresh adjudication. Though, learned Departmental Representative submitted that sufficient opportunity granted by the First Appellate Authority was not availed by the assessee. However, he submitted that to provide an opportunity to the assessee to explain his case through supporting evidence, issues can be restored back to the First Appellate Authority.



5. We have considered rival submissions and perused materials on record. The assessee is a resident individual. It appears, for the assessment year under dispute, the assessee did not file any return of income u/s. 139(1) of the Act. The Assessing Officer received system generated information indicating that in the previous year relevant to assessment year under dispute, the assessee had made cash deposits in his bank account during the demonetization period. The total amount of cash deposited was to the tune of Rs. 20,19,000/-. To verify the source of cash deposits, the Assessing Officer issued notices u/s. 142(1) of the Act to the assessee, directing him to file return of income.
6. However, as observed by the Assessing Officer, the assessee did not comply with the said notice. Subsequently, summons u/s. 131 of the Act was issued to the assessee. In response, the assessee appeared and his statement was recorded. In course of assessment proceeding, the Assessing Officer asked the assessee to explain the source of cash deposits. However, the reply furnished by the assessee was not to the satisfaction of the Assessing Officer. Accordingly, he added back an amount of Rs. 19,57,200/- u/s. 69A of the Act representing cash deposited in the bank account during demonetization period. Further, in course of assessment proceedings, it transpired that the assessee was engaged in the business of motor garage. When the assessee was called upon to explain the source of credit entries in the bank statements, the assessee submitted that they were made out of business receipts. However, the assessee could not furnish any books of accounts or audited financial statements. Ultimately, the Assessing Officer estimated profit at 29.5% on the receipts of Rs. 91,77,424/- and added back an amount of Rs. 27,07,340/-. He further found that in the year under consideration, the assessee had sold an immovable property. In response to the query



raised, the assessee furnished a working of capital gain showing capital gain of Rs. 16,48,000/-. However, as alleged by the Assessing Officer, the assessee failed to furnish stamp duty valuation/market value for acquisition/sale of the property. To ascertain the market value of the property, the Assessing Officer made a reference to the District Valuation Officer (DVO). In terms with the valuation report of the DVO, the Assessing Officer computed Long Term Capital Gain (LTCG) and added back an amount of Rs. 22,78,100/-. Thus, ultimately, the Assessing Officer completed the assessment determining the total income at Rs. 69,42,640/-. Against the assessment order so passed the assessee preferred an appeal before First Appellate Authority. However, as discussed earlier, the First Appellate Authority dismissed the appeal through an *ex parte* order.

7. It is the say of the assessee before us that the hearing notices were communicated by the First Appellate Authority to a wrong email ID. Hence, the assessee never received them. Therefore, the assessee was prevented from appearing before the First Appellate Authority to explain his case. From the materials placed on record, it is evident that in the memorandum of appeal in form no. 35 furnished before the First Appellate Authority, the assessee has mentioned the email id as doshi.maru@gmail.com. Whereas, as per the materials placed before us, the First Appellate Authority communicated the notice of hearing to the email id alzareeauto@yahoo.com. Thus, it is quite clear from facts on record that the notice of hearing issued by the First Appellate Authority was never communicated in the correct email id of the assessee. Therefore, the assessee did not get a fair opportunity to represent his case before the First Appellate Authority. In view of the aforesaid, we hold that the assessee deserves a fair opportunity to represent



his case before the departmental authorities through supporting evidences as the issues involved are purely factual and have to be decided based on evidences. Accordingly, we set aside the impugned order of the First Appellate Authority and restore the issues to the file of the Assessing Officer for *de novo* adjudication. The reason for restoring the issues to the Assessing Officer is simply for the purpose of avoiding delay in completion of proceeding as in case of restoration of issues to the First Appellate Authority, there would again be requirement for remand to the Assessing Officer to examine the evidences to be furnished by the assessee. Thus, the issues stand restored to the Assessing Officer for *de novo* adjudication after providing due and reasonable opportunity of being heard to the assessee. Further, we direct the assessee to promptly and diligently respond to the notices to be issued by the Assessing Officer and cooperate in finalization of the proceeding.

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

Order pronounced on 30.03.2026

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Mumbai; Dated: 30.03.2026

Karishma J. Pawar (SR. PS)

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

//True Copy//



ITA No. 8494/Mum/2025 (A.Y. 2017-18)
Fahim Ahmed Iqbal Ahmed Sharif

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai