

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No. 175/Mum/2026  
(Assessment Year: 2018-19)

Sheth Doongarshi Gangji & Others Cutch Anjar Lohana Boarding Trust NKT College, Near Collector Office, Kharkar Alley, Thane-400 601	Vs.	Income Tax Officer Exemption Ward 2(3) 617, 6 <sup>th</sup> Floor, Cumballa Hill MTNL TE Building, Pedder Road, Dr. Gopalrao Deshmukh Marg, Cumballa Hill, Mumbai
PAN/GIR No. AAITS 8264 J		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Appellant by</b>	:	Shri Rohan Dedhia
<b>Respondent by</b>	:	Shri Swapnil Choudhari (Sr. AR)
<b>Date of Hearing</b>	:	30.03.2026
<b>Date of Pronouncement</b>	:	08.04.2026

**ORDER**

Per Saktijit Dey, Vice President:

This is an appeal by the assessee against order dated 19.08.2025 passed by National Faceless Appeal Centre (‘NFAC’ for short), Delhi pertaining to the assessment year (A.Y. for short) 2018-19.

2. The sole grievance of the assessee in the present appeal is with regard to dismissal of the appeal in limine without condoning the delay of 2 years 20 days.

3. Briefly, the facts are, the assessee is a Trust. As per the information available in insight portal of the Income Tax Department, the Assessing Officer (A.O. for short) found that in the previous year relevant to the assessment year under dispute the assessee had deposited cash amounting to Rs.97,37,880/- in an account maintained with Central Bank

of India. He further noticed that during the year, the assessee had also shown interest income of Rs.2,23,241/-. Whereas, the assessee did not file any return of income u/s. 139(1) of the Act. Accordingly, having reason to believe that income chargeable to tax has escaped assessment, the A.O. initiated proceedings u/s. 147 of the Act by issuing a notice u/s. 148 of the Act on 30.03.2022. However, as alleged by the A.O., the assessee neither responded to the notice issued u/s. 148 of the Act nor to the subsequent notices issued u/s. 142(1) of the Act. Finally, the A.O. issued a show cause notice u/s. 144 of the Act intimating the assessee regarding the completion of assessment u/s. 144 of the Act in case of non-compliance. Still, the assessee did not comply. Thus, in absence of any response from assessee's side, the A.O. proceeded to complete the assessment u/s. 147 r.w.s. 144 of the Act and determining the total income at Rs.99,61,121/-.

4. Against the assessment order so passed, the assessee preferred an appeal before Id. First appellate authority.

5. However, the appeal was delayed by 2 years 20 days. As alleged by Id. First appellate authority, the assessee did not file any application seeking condonation of delay. Thus, ultimately, Id. First appellate authority proceeded to dismiss the appeal in limine on account of delay.

6. We have considered rival submissions and perused the materials available on record. It is the say of the assessee before us that the email-id of the assessee was changed, however, the change in email-id was not intimated to the A.O. Hence, the assessee remained unaware of the fact that the assessment order had been passed. This, according to the assessee, resulted in delay in filing the appeal.

7. Per contra, Id. Departmental Representative (Id. DR for short) submitted, since, the assessee was negligent for which the delay in filing the appeal happened, the assessee should not be shown any leniency.

8. Having considered rival submissions and perused the materials on record, we find that though there was delay in filing the appeal before Id. first appellate authority, however, the assessee had not explained the delay. For this reason, the appeal was dismissed in limine without condoning the delay. It is a fact on record that the assessment in case of the assessee was reopened based on the information that in the year under consideration, the assessee had deposited cash amounting to Rs.97,37,880/-. In fact, the assessment order was also passed *ex parte* due to non-compliance from assessee's side. Thus, it is a fact on record that the assessee did not get any opportunity either due to his own lapse or otherwise to explain the source of cash deposits. In our view, since the addition is purely factual and has been made due to failure on the part of the assessee to explain the source of the deposits due to his absence in course of assessment proceedings and the assessee did not get an opportunity before the first appellate authority to argue the case on merits due to dismissal of appeal on account of delay, the assessee deserves an opportunity to explain the source of cash deposits in the bank account. This can only be done if the assessee gets an opportunity of hearing before the first appellate authority, since, Id. First appellate authority did not go into the merits of the issue. However, fact remains that the assessee has not explained the cause of delay in filing the appeal before Id. first appellate authority. Though before us, the assessee has furnished an Affidavit explaining the cause of delay. Since, the delay in filing the appeal was before Id. First appellate authority, it is the duty of the assessee to explain the reason of delay to Id. First appellate authority. To enable the

assessee to do so, we are inclined to set aside the impugned order of ld. First appellate authority and restore the issues back to him. The assessee is directed to file application before ld. First appellate authority supported by an Affidavit explaining the cause of delay. Upon filing of such application, ld. First appellate authority shall consider the issue of condonation of delay and thereafter proceed to adjudicate the appeal on merits after providing due and reasonable opportunity of being heard to the assessee.

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

*Order pronounced in the open court on 08.04.2026*

Sd/-

(Girish Agrawal)  
Accountant Member

Mumbai; Dated : 08.04.2026

Roshani, Sr. PS

**Copy of the Order forwarded to :**

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

Sd/-

(Saktijit Dey)  
Vice President

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai