

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

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

ITA No.6689/MUM/2024

Aarya Sarwate, 704, AI Basant Kavy Adhara Complex, Kolshet Road, Dhokali, Mumbai – 400 067, Maharashtra	v/s. बनाम	Income Tax Officer, TDS – 1, Thane, Qureshi Mansion, Gokhale Road, Thane – 400602, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: PNED15498A		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Shri Sanjiv Brahme,AR
Revenue by :	Shri Surendra Mohan, (Sr. DR)

Date of Hearing	23.12.2025
Date of Pronouncement	05.02.2026

आदेश / ORDER

PER PRABHASH SHANKAR [A.M.] :-

The present appeal is preferred by the assessee against the order passed by the Learned Commissioner of Income-tax, Appeal, ADDL/JCIT(A), Udaipur [hereinafter referred to as “CIT(A)”] pertaining to order passed u/s. 201(1)/201(1A) of the Income-tax Act, 1961 [hereinafter referred to as “Act”] dated 14.11.2022.

2. The grounds of appeal are as under:

1. The notice u/s 201 being without DIN is bad in law in so far the notice of demand not being accompanied with the order.



2. *The CIT Appeals has erred in confirming the TDS default amount of Rs. 23,20,000/-u/s. 201(1) disregarding the factual position.*
3. *The CIT Appeals has erred in not providing opportunity of being heard to the Assessee.*
4. *The CIT Appeals has erred in levying the interest u/s 201(1A) with no fault of Assessee.*
5. *The CIT Appeals has erred in confirming the fees levied u/s 234E by the Assessing Officer for non- filing of return in Form 26QB when in rectifying the Return was filed in time.*

3. Briefly stated facts of the case are that the AO noticed that the assessee purchased a property for total consideration of Rs.1.60 cr. from Mr. Balram Agarwal and Usha Agrawal who were NRIs vide agreement dated 06/12/2019. Deductor assessee had made TDS @ 1% instead of 30% plus surcharge etc. and she was also not in possession of any lower deduction certificate u/s 197 of the Act. Accordingly, the ITO(TDS-1), Thane held the assessee as defaulter u/s 201(1) and 201(1A) and also charged interest u/s 234E of the Act.

4. The assessee filed an appeal against the said order before the Id.CIT(A) contesting the action of the TDS authority who noted that the appeal filed was delayed by nine months. According to the impugned order, on perusal of Form-35, it was noticed that order passed u/s 201(1A) of the Act on 14/11/2022 while the appeal was filed on 06/09/2023, which was beyond the statutory time limit provided for filing of the appeal. The appeal was required to be filed within 30 days



i.e. by 14/12/2022. However, it was belatedly filed on 06/09/2023. He further observed that there was substantial delay in the filing of appeal for which no sufficient reason was given by the assessee in terms of section 249(3) of the Act. Accordingly, the appeal was dismissed without any discussion on merits or on any other aspect.

5. Before us, it is contended that the Id.CIT(A) did not allow any opportunity to explain the delay and suo moto dismissed the appeal, thus violating the principles of natural justice. We find that the Id.CIT(A) has dismissed the appeal *in limine* on the issue of delay only. It appears from the record that the assessee was also not accorded opportunity of hearing in this regard before dismissing the appeal. Therefore, substantive adjudication of the issues could not be done by him without opportunity of hearing to the assessee. In the grounds of appeal, we find that the assessee has raised various grounds of appeal challenging the impugned addition.

6. In the light of above observations and in the substantial interest of justice, we set aside the appellate order and restore the entire matter back to the Id.CIT(A) for allowing the assessee to explain the reasons of delay in filing the appeal and on satisfaction thereof, he would pass the appellate order *de novo*.



7. In the result, the appeal is allowed for **statistical purposes.**

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

Order pronounced in the open court on **05/02/2026.**

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 05.02.2026

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

