

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

BEFORE: SHRI SANJAY GARG, JUDICIAL MEMBER

AND

SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A. No. 36/Ahd/2026
(निर्धारण वर्ष / Assessment Year : 2012-13)

Suresh Nenmalji Malvi 37, Jivraj Park Society, Padmanabh Road, Patan, Gujarat- 384265	बनाम / Vs.	ITO Ward-3(3)(5), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AKMPM4951C		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Chetan Agarwal, AR
प्रत्यर्थी की ओर से/Respondent by :	Shri Abhijit, Sr. DR

Date of Hearing	09/02/2026
Date of Pronouncement	23/02/2026

ORDER

PER ANNAPURNA GUPTA, AM:

The present appeal has been filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (hereinafter referred to as “NFAC”), Delhi (hereinafter referred to as “CIT(A)”) dated 25.11.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2012-13.

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

“1. *The Ld. CIT(A) has erred in law as well as on fact by not admitting an appeal of the assessee.*”

2. *The Ld. CIT(A) has erred in law as well as on fact by dismissing an appeal solely on the basis of delay of 20 days in filing appeal before Ld. Authority.*
3. *The Ld. CIT(A) has erred in law as well as on fact by not adjudicating case on the merits and dismissing appeal on the basis of invalid and vague reasons without application of mind.*
4. *The Ld. CIT(A) has erred in law as well as on fact by rejecting condonation request for only 20 days of delay in filing an appeal before Ld. Authority.*
5. *The Ld. CIT(A) has erred in law as well as on fact by upholding an addition made by Ld. AO amounting to Rs. 99,70,000/- u/s 69A being gross sales consideration on sale of shares of SMS Techsoft India Ltd., which is part of fraudulent activity preyed upon appellant and other 36 persons.”*

3. At the outset, Ld. Counsel for the assessee stated that the assessee's appeal was dismissed by the Ld. CIT(A) as non-maintainable by not condoning the delay of a mere 20 days in filing of the appeal before him. Ld. Counsel for the assessee pleaded that the delay was very small and the assessee was a non-filer of return of income, whose case was reopened u/s.148 of the Act. He contended that the assessee was not well versed with the Income Tax matter, being non-filer of return of income and the delay being of a mere 20 days, the same be condoned and the matter to be restored back to the Ld. CIT(A) to be decided on merits.

4. At this juncture, it was noted that even the assessment order was passed ex parte and the assessee had not participated in the same. The Ld. Counsel for the assessee pleaded the same reason as above for non-participation in the assessment proceedings.

5. Noting above facts and circumstances, we consider it fit to condone the delay before the Ld.CIT(A), set aside the order passed by him and restore the matter back to the file of the AO for adjudication afresh subject to the assessee paying a cost of Rs.5000/- for the laxity in its approach in dealing with matters relating to law. The cost is to be deposited by the assessee to the Prime Minister's Relief Fund and proof of the same to be submitted to the AO. The AO is directed to proceed with the matter only after the assessee submits proof of deposit of cost to the Prime Ministers Relief Fund.

6. In the result, the appeal of the assessee is, accordingly, allowed for statistical purposes.

This Order pronounced on	23/02/2026
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Sd/-
(SANJAY GARG)
JUDICIAL MEMBER
Ahmedabad; Dated 23/02/2026

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

S. K. SINHA

True Copy

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad