

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI MAKARAND VASANT MAHADEOKAR,  
ACCOUNTANT MEMBER**

**ITA No.9155/Mum/2025  
(Assessment Year :2017-18)**

Darshana Dinesh Ghag 1201, Sadguru Heights 1, Shiv Vallabh Road Ashokvan, Dahisar East S.O. Mumbai-400 068	Vs.	Income Tax Officer 42(1)(2), Mumbai
<b>PAN/GIR No.BMNPG7527G</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Niraj Soni
Revenue by	Shri Annavaram Kosuri, SR AR
<b>Date of Hearing</b>	<b>01/04/2026</b>
<b>Date of Pronouncement</b>	<b>20/04/2026</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The present appeal has been preferred by the assessee against the order dated 01.12.2025 passed by the National Faceless Appeal Centre (NFAC), Delhi, arising out of the assessment framed under section 147 read with section 144 of the Income Tax Act, 1961 for the Assessment Year 2017-

18. The grievance of the assessee, in its essential contour, is twofold: firstly, the dismissal of the first appeal on the ground of delay without adjudication on merits; and secondly, the additions made in the reassessment proceedings, which, according to the assessee, have been fastened without affording any effective opportunity of hearing.

2. At the very outset, it is an admitted position that the appeal before the Id. CIT(A) was filed with a delay of 126 days. The assessee has, in support of the petition for condonation, filed a duly sworn affidavit setting out, with particularity and clarity, the circumstances which occasioned such delay. The averments contained therein, forming part of the record, merit careful consideration, for they constitute the substratum of the assessee's explanation.

3. From a holistic reading of the affidavit, it transpires that the assessee had categorically stated that she had not received any statutory notices issued under section 142(1) nor the assessment order dated 18.03.2025. The reason for such non-receipt has been attributed to the fact that the notices were dispatched to an old residential address, which the assessee had vacated as early as in the year 2017. The affidavit specifically delineates both the old and the new addresses, thereby lending credibility to the assertion that the

communications were not served at the correct address. This aspect assumes significance, for service of notice at an incorrect or obsolete address cannot be equated with valid service in the eyes of law.

4. The assessee has further averred that she was suffering from ill-health during the relevant period when the assessment proceedings culminated, and on account of such circumstances, she remained unaware of any proceedings that may have been initiated by the Department. This assertion has not been controverted by any material brought on record by the Revenue. It is also borne out from the affidavit that the assessee was not a regular filer of returns and had, in fact, created her account on the income-tax portal for the first time only in August 2025, primarily for the purpose of claiming TDS credit. It was only upon such registration that she came to know of the impugned reassessment order, whereupon she acted with promptitude and filed the appeal before the Id. CIT(A) on 22.08.2025.

5. The sequence of events, as narrated in the affidavit, thus reveals that the delay was neither deliberate nor attributable to any negligence or inaction on the part of the assessee, but was occasioned by a confluence of factors, namely, non-service of notices at the correct address, lack of knowledge of

the proceedings, and intervening ill-health. The explanation, in our considered view, is not only plausible but also supported by a coherent factual narrative. It is well-settled that while considering an application for condonation of delay, the approach of the Court or Tribunal should be guided by the principles of substantial justice rather than technicalities, and unless the conduct of the litigant is found to be mala fide or lacking in bona fides, the delay deserves to be condoned.

6. In the present case, we find no element of mala fide or dilatory tactic in the conduct of the assessee. On the contrary, the moment the assessee became aware of the assessment order, she took immediate steps to avail the appellate remedy. In such circumstances, the refusal of the ld. CIT(A) to condone the delay and the consequent dismissal of the appeal in limine, without adverting to the merits of the case or the veracity of the affidavit, cannot be sustained. The ld. CIT(A), being a quasi-judicial authority, was under an obligation to examine the explanation furnished and render a reasoned finding thereon, which, in the present case, is conspicuously absent.

7. Coming to the assessment proceedings, it is an undisputed position that the assessment has been framed ex

parte under section 144, wherein substantial additions have been made, inter alia, on account of alleged unexplained investment in purchase of immovable property, alleged unexplained sale consideration under section 69, and interest income from savings bank account. However, as borne out from the record and reinforced by the affidavit, the assessee could not participate in the proceedings due to non-receipt of notices, which, as noted hereinabove, were sent to an incorrect address. Thus, the very foundation of the ex parte assessment stands vitiated by lack of proper service and denial of opportunity.

8. Having regard to the aforesaid factual matrix, it becomes manifest that the assessee has been deprived of a fair and reasonable opportunity of being heard at both stages, namely before the Assessing Officer as well as before the Id. CIT(A), primarily on account of non-service of notices at the correct address and consequent lack of knowledge of the proceedings. Such denial of opportunity goes to the root of the matter and vitiates the entire assessment proceedings, for it is a settled canon that no person should be condemned unheard. In these circumstances, and in the interest of substantial justice, we set aside the impugned order of the Id. CIT(A) as well as the assessment order passed under section 147 read with section 144, and restore the entire matter to the file of

the ld. Assessing Officer for de novo adjudication. The ld. AO shall issue notices at the correct address of the assessee and afford adequate opportunity of hearing, and the assessee is also directed to cooperate and place all relevant material on record. The issues shall be decided afresh in accordance with law, uninfluenced by any observations made hereinabove.

**9. In the result, the appeal of the assessee is allowed for statistical purposes.**

Order pronounced on 20<sup>th</sup> April, 2026.

**Sd/-  
(MAKARAND VASANT  
MAHADEOKAR)**

**ACCOUNTANT MEMBER**

Mumbai; Dated 20/04/2026  
KARUNA, *sr.ps*

**Sd/-  
(AMIT SHUKLA)**

**JUDICIAL MEMBER**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**