

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA 819/MUM/2026  
(A.Y. 2016-17)**

<b>Sameena Shamsuddin Sayed</b> Room No. 92, 9 <sup>th</sup> Floor, Vaibhav Co-op Housing Society, Dharavi Main Road, Dharavi, Mumbai – 400 017, Maharashtra	v/s. बनाम	Income Tax Officer, Ward – 22(3)(6), Lalbaug, Parel, Mumbai – 400 012, Maharashtra
<b>स्थायी लेखा सं./जीआइआर सं./ PAN/GIR No: BVTPS9088K</b>		
<b>Appellant/अपीलार्थी</b>	..	<b>Respondent/प्रतिवादी</b>

Appellant by :	None
Respondent by :	Shri Swapnil Choudhari (Sr. DR)

Date of Hearing	21.05.2026
Date of Pronouncement	27.05.2026

**आदेश / O R D E R**

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

1. The aforesaid appeal has been filed by the assessee against the order dated 26.08.2025 passed by the learned CIT(A), NFAC, Delhi, arising out of assessment order passed under section 147 read with sections 144 and 144B of the Income Tax Act, 1961 for the assessment year 2016-17.

2. The assessee is mainly aggrieved by the addition of Rs.1,10,00,000/- made by the Assessing Officer under section 69 of the Act treating the investment made in purchase of immovable property as unexplained investment and also against the action of the learned CIT(A) in dismissing the appeal *in limine* on account of delay of 79 days without adjudicating the issue on merits.

3. Briefly stated, the facts borne out from the assessment records are that the assessee is an individual lady residing in Mumbai and is admittedly a homemaker having no independent source of income. As noted in the statement of facts and also reflected from the records available before the authorities below, the assessee had not filed any return of income for the impugned assessment year as there was no taxable income in her hands. Information was received through RMS/Insight Portal that the assessee had purchased an immovable property valued at Rs.1,10,00,000/- during the financial year relevant to assessment year 2016-17. Accordingly, proceedings under section 148A were initiated and thereafter notice under section 148A(b) was issued.

4. From the plain reading of the assessment order itself, it is seen that the assessee had duly responded during the course of proceedings and had specifically explained before the Assessing Officer that the entire investment in the residential

property was made by her father Late Mr. Shahensha Ibrahim Shaikh, who was a businessman and a regular income-tax assessee. The assessee had categorically stated that the father had directly paid the purchase consideration from his own ICICI Bank account to the seller of the property and the property was purchased in the name of the daughter out of natural love and affection. The assessment order itself records that the assessee had furnished copy of sale deed, copy of death certificate of the father and copy of the ICICI Bank statement reflecting direct payments of Rs.55,00,000/- each on 01.10.2014 and 10.10.2014 aggregating to Rs. 1,10,00,000/-.

5. The assessment order further records that notices under section 142(1) were issued and in response thereto the assessee had again reiterated that she was merely a housewife having no source of income and that the entire payment for purchase of property had been made by the father directly to the seller from his bank account. The assessee had also furnished supporting bank statements and details of payment during the course of assessment proceedings. However, the Assessing Officer rejected the explanation primarily on the reasoning that though the bank statement of the father was furnished, the source of credits appearing in the bank account of the father had not been explained and no formal gift deed had been filed. On such reasoning, the Assessing Officer held that the source of investment remained unexplained and

consequently treated the entire investment of Rs.1,10,00,000/- as unexplained investment under section 69 taxable under section 115BBE of the Act.

6. Thereafter, the assessee preferred appeal before the learned CIT(A). However, the learned CIT(A), instead of adjudicating the issue on merits, dismissed the appeal *in limine* on the ground of delay of 79 days in filing of the appeal.

7. We have carefully perused the findings of the authorities below and the material placed on record. At the very threshold, we find that the learned CIT(A) has dismissed the appeal on a purely technical ground of delay without appreciating the peculiar facts and circumstances surrounding the case of the assessee. The records clearly reveal that the assessee is a homemaker lady having no independent source of income and was throughout dependent upon tax consultants for handling the proceedings before the Income Tax Department. The explanation furnished in the statement of facts demonstrates that the assessee remained under a bona fide belief that the proceedings were being properly attended to and further, due to illness and inability to effectively coordinate with the consultant, there occurred delay in preferring the appeal. In our considered opinion, the explanation constituted a reasonable and sufficient cause and therefore the learned CIT(A) ought to have adopted a justice-oriented approach instead of

dismissing the appeal *in limine* without examining the issue on merits. It is now well settled that substantial justice deserves to prevail over technical considerations and matters involving serious civil consequences should not ordinarily be thrown out at the threshold on account of marginal procedural delay. Accordingly, the delay in filing the appeal before the learned CIT(A) stands condoned.

8. Coming to the merits of the addition, we find that the entire edifice of the assessment order rests more on suspicion and conjecture than on any cogent material brought on record by the Revenue. It is an admitted and undisputed fact borne out from the assessment order itself that the assessee had specifically explained before the Assessing Officer that she was merely a housewife and the entire consideration for purchase of the property had been paid directly by her father from his own bank account. Not only this, the assessee had also furnished documentary evidences in support thereof including the registered sale deed, bank statements of the father and complete details of payments made to the seller. The assessment order itself reproduces the details of the payments of Rs.55,00,000/- each made on 01.10.2014 and 10.10.2014 directly from the ICICI Bank account of the father to the seller of the property. Thus, the immediate and proximate source of investment stood fully explained before the Assessing Officer by way of documentary evidences available on record.

8.1 Once the assessee had discharged the primary onus by demonstrating that the funds had flown directly from the disclosed bank account of her father, then the burden shifted upon the Revenue to bring some adverse material on record to dislodge the explanation so furnished. However, no such material has been brought by the Assessing Officer. The Revenue has nowhere disputed the identity of the father, nor has it disputed that the father was a businessman and regular income-tax assessee. The payments through banking channel have also not been disputed. The only reason assigned by the Assessing Officer is that the source of credits in the bank account of the father had not been explained and that no formal gift deed had been furnished. In our considered opinion, such reasoning cannot justify an addition under section 69 in the hands of the assessee. The Assessing Officer, while making the addition, has completely lost sight of the fact that the assessee herself was admittedly not having any source of income and there is absolutely no material on record to even remotely suggest that the assessee had generated any undisclosed income from which such investment could have been made. Merely because the Assessing Officer entertained some suspicion regarding antecedent credits in the bank account of the father, the same could not be a ground to fasten tax liability upon the assessee daughter under section 69 of the Act.

9. We further find that the approach of the Assessing Officer in doubting the transaction merely because no formal gift deed was produced is wholly untenable in the peculiar facts of the present case. In ordinary Indian family set-up, it is neither uncommon nor unusual for a father to acquire property in the name of his daughter out of natural love and affection without executing any formal gift documentation. Human probabilities and surrounding circumstances cannot be ignored while appreciating such transactions within close family relations. Here, the transaction is fully corroborated by banking records, direct transfer of funds to the seller and documentary evidences placed before the Assessing Officer himself. Once the payment trail stood duly established and the source of payment was identified, then absence of a formal gift deed by itself could not render the transaction unexplained or ingenuine. The entire addition, therefore, has been made merely on surmises and presumptions without any legally sustainable basis.

10. We are also of the considered opinion that remanding the matter back to the file of the Assessing Officer at this stage would serve no useful purpose and would only prolong unnecessary litigation for the assessee. The entire material necessary for adjudication is already available on record and in fact forms part of the assessment order itself. The assessee had duly explained the source of investment before the Assessing Officer at the very inception and had furnished all supporting

evidences available with her. Despite that, the explanation has been rejected on wholly flimsy and hyper-technical grounds. Therefore, instead of relegating the assessee to another round of proceedings, which would only perpetuate hardship and harassment to a homemaker lady having no independent source of livelihood, we deem it fit and proper to adjudicate the issue finally on merits.

11. Accordingly, in view of the aforesaid discussion and considering the entirety of facts and material available on record, we hold that the addition of Rs.1,10,00,000/- made under section 69 of the Act is wholly unsustainable and liable to be deleted. The Assessing Officer is directed to delete the addition in entirety.

12. In the result, appeal of the assessee stands allowed.

Order pronounced in the open court on **27/05/2026**.

**Sd/-**

**(PRABHASH SHANKAR)**

**(लेखाकार सदस्य / ACCOUNTANT MEMBER)**

**Sd/-**

**(AMIT SHUKLA)**

**(न्यायिक सदस्य / JUDICIAL MEMBER)**

Place: मुंबई / Mumbai  
दिनांक / Date 27.05.2026  
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.**