

**IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE**

ITAT 48 OF 2026

IA NO: GA 1 OF 2026

**JAYANTA GHOSH
VS
INCOME TAX OFFICER, MANIKTALA AND OTHERS**

BEFORE:

**THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND
THE HON'BLE JUSTICE UDAY KUMAR**

For the Appellant : Ms. Sruti Datta, Ld. Adv.

For the Respondents : Mr. Tarak Nath Jaiswal, Ld. Adv.
Mr. Madhu Jana, Ld. Adv.
Mr. Wahed Reja, Ld. Adv.

Hearing concluded on : 21.04.2026

Judgment on : 28.04.2026

Uday Kumar, J:-

ADMISSION OF THE APPEAL

1. The present appeal, preferred by the assessee under Section 260A of the Income Tax Act, 1961, is directed against the order of the Income Tax Appellate Tribunal (ITAT), "SMC" Bench, Kolkata, dated November 21, 2025, by which the learned Tribunal dismissed the appeal *in limine* on

the grounds of limitation, refusing to condone a delay of 430 days, without considering the merits of the assessment.

2. We have taken this matter appeared for the hearing on admission of this appeal. The primary issue is the summary dismissal of the appeal by the Tribunal, affirming an ex-parte order of a National Faceless Appeal Centre (NFAC), on the grounds of limitation (a delay of 430 days) without addressing the underlying jurisdictional challenge.

THE FACTUAL BACKGROUND

3. The facts leading to this appeal may be briefly summarized. The appellant is an individual assessee. The reassessment proceeding against him was initiated under Section 147 of the Act for the Assessment Year 2017-2018. The Assessing Officer (AO) passed an ex-parte order making an addition of Rs. 13,76,200/- by invoking Section 50C (or Section 56(2)), alleging that the purchase price of an immovable property at Rajarhat was lower than its stamp duty value. This assessment deprived him of a fair opportunity to contest the valuation on facts. Aggrieved thereby, the assessee preferred an appeal before the National Faceless Appeal Centre (NFAC). However, the appeal was dismissed *in limine* due to a delay of 430 days. This dismissal was subsequently affirmed by the learned Tribunal through the impugned order, primarily on the ground that the appellant had failed to produce documentary evidence, specifically a death certificate, to substantiate his claim of "sufficient cause." In our view, such dismissal in itself is a substantial question of law.

4. Accordingly, the appeal is admitted on the following Substantial Questions of Law that require our adjudication:

- a. Whether the act of the Tribunal in dismissing an appeal solely on the grounds of delay, without considering the merits of a jurisdictional challenge, constitutes a "perverse" exercise of discretion?
- b. Whether the death of an authorized representative and the transition of files in a faceless regime constitute "sufficient cause" within the meaning of Section 5 of the Limitation Act?
- c. Whether the underlying assessment is a jurisdictional nullity for failing to obtain mandatory approval from the Principal Chief Commissioner (PCCIT) under Section 151, given the escaped income was below Rs. 50 lakhs and the notice were issued beyond three years?

SUBMISSIONS ON BEHALF OF THE APPELLANT

5. Ms. Sruti Datta, learned counsel appearing for the appellant, argued that the appellant was a victim of circumstances beyond his control. It was submitted that his erstwhile authorized representative, Shri Ratan Kumar Ghosh, who was handling the tax matters and possessed all relevant files, suffered from a terminal illness and passed away on July 23, 2024. He contended that in the current Faceless Assessment regime, a taxpayer is entirely dependent on the digital portal managed by their professional. The death of the professional created a communication vacuum, leading to the delay. Furthermore, on the merits, she raised a

fundamental jurisdictional objection, contending that the notice under Section 148 was issued with the approval of the Principal Commissioner (PCIT) instead of the Principal Chief Commissioner (PCCIT), as required under the amended Section 151 for cases exceeding three years where the escaped income is below Rs. 50 Lakhs.

SUBMISSIONS ON BEHALF OF THE RESPONDENT (REVENUE)

6. Per contra, Mr. Tarak Nath Jaiswal, learned Counsel for the Revenue, submitted that the Tribunal's order is well-founded. He argued that the law of limitation is a statute of repose and cannot be bypassed without cogent evidence. He points out that the appellant failed to produce any death certificate or evidence of representation before the lower authorities. He further submits that since the appeal was never admitted on merits due to the time-bar, the question of examining the validity of the approval under Section 151 does not arise at this stage.

DISCUSSION ON LAW AND MERITS

7. We have considered the rival submissions. The primary issue is whether a procedural threshold can be used to validate an order that is potentially *void ab initio*. The Hon'ble Supreme Court in *Collector, Land Acquisition vs. MST Katiji* (1987) 167 ITR 471 (SC) has unequivocally held that the judiciary should adopt a "liberal approach" toward condonation of delay to ensure substantial justice. It was observed that technicalities should not be allowed to result in a miscarriage of justice, as a litigant does not stand to benefit from a delayed filing.

8. Furthermore, in the recent decision of *Inder Singh vs. State of Madhya Pradesh* [2025 Live Law (SC) 339], the Apex Court reiterated that a flexible view is mandatory when a limitation ground undermines the merits of the case. In a digital environment, the death of an authorised representative is a "force majeure" event for an assessee who lacks digital literacy. In the present case, the "sufficient cause" was the death of the counsel, a fact that goes to the heart of the right to legal representation.
9. More importantly, the jurisdictional defect raised by the appellant regarding Section 151 strikes at the very root of the matter. If the approval for reassessment was granted by an authority not "specified" under the statute, as held by this Court in *Subhra Basu vs. Union of India*, WPA 18828 of 2022 (Cal HC), the entire proceeding is a nullity. A jurisdictional error of such magnitude cannot be shielded by the law of limitation.

CONCLUSION AND FINAL DIRECTIONS

10. Therefore, we find that the learned Tribunal adopted an overly rigid and hyper-technical approach. By refusing to condone the delay caused by a professional's death and failing to address a patent jurisdictional nullity, the Tribunal has failed to exercise its discretion in a just and proper manner. To shut the doors of justice at the threshold is improper when the very legality of the tax demand is in question.

11. Consequently, we pass the following order:

- I. The delay of 430 days in filing the appeal is hereby condoned.
- II. The impugned order of the ITAT dated November 21, 2025, is set aside.
- III. The matter is remanded to the ITAT, Kolkata Bench, for a fresh adjudication on its merits.
- IV. The Tribunal is specifically directed to decide the Jurisdictional Validity of the assessment under Section 151 as a preliminary issue.
- V. The Tribunal shall endeavour to dispose of the appeal expeditiously, preferably within six months, after providing a fair opportunity of hearing to both parties.

12. The appeal is allowed by way of remand.

13. IA No. GA 1 of 2026 is also disposed of accordingly.

14. Ordered accordingly.

I AGREE

(RAJARSHI BHARADWAJ, J.)

(UDAY KUMAR, J.)