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

ITAT 120 OF 2026

IA NO: GA 2 OF 2026

AJITNATH SUPPLIERS PRIVATE LIMITED

VS

THE PRINCIPAL COMMISSIONER OF INCOME TAX-1, KOLKATA AND ORS.

BEFORE:
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ
AND
THE HON'BLE JUSTICE UDAY KUMAR

For the Appellant	: Mr. Amit Agarwal, Mr. Tabbish Wasi
For the Respondents	: Mr. Prithu Dudhoria
Reserved on	: 27.07.2026
Pronounced on	: 07.08.2026

Uday Kumar, J:-

I. INTRODUCTION

1. It is a foundational tenet of our constitutional democracy and judicial architecture that access to justice is a substantive right, and the procedural machinery of the law must forever remain a handmaid to justice rather than its mistress. In the realm of fiscal jurisprudence, where the State is empowered to assess and collect revenue, the citizen or corporate entity is equally guaranteed the right to a fair, objective, and meaningful adjudication of grievances. When an appellate tribunal, sitting as a final fact-finding body, discovers a gross violation of the principles of natural justice, such as a litigant being condemned unheard by a lower authority, its primary obligation is to set aside the flawed order and remit the matter for a clean-slate trial. However, when that remedial restoration is shackled by an arbitrary monetary pre-condition, coupled with a penal guillotine of *"automatic confirmation"* upon default, the judicial process is subverted into an instrument of oppression. An assessee already grappling with severe liquidity crunches and a multi-crore tax demand cannot be shown the exit doors of justice merely because a procedural cost could not be cleared within a compressed timeline.

2. The subject-matter of challenge in this appeal under Section 260A of the Act is the order dated 23rd June, 2025, passed by the Income Tax Appellate Tribunal, 'A' Bench, Kolkata, in ITA No. 334/Kol/2025 for the Assessment Year (AY) 2018–19 (the certified copy whereof was received by the appellants on 3rd December, 2025). By the said impugned order, while the learned Tribunal recorded a categorical finding of fact that the Commissioner of Income Tax (Appeals) [CIT(A)] had passed an ex-parte order denying the assessee an adequate opportunity of being heard in violation of the principles of natural justice, it nevertheless made the order of remand subject to a heavy monetary pre-condition of ₹1,00,000/- payable as cost to the Legal Aid Services, High Court, Calcutta, within sixty (60) days. Crucially, the Tribunal incorporated a self-executing penal default clause stipulating that upon failure or default in depositing the said cost within the mandated window, the ex-parte order of the CIT(A), which had affirmed an assessment addition of ₹1,23,50,000/- under Section 68 of the Act, would stand automatically confirmed.

3. We have carefully perused the impugned order and find that the learned Tribunal, having arrived at a definitive conclusion that the first appellate authority acted in flagrant breach of the principles of natural justice, committed a fundamental jurisdictional error in converting its remedial order of remand into a conditional, coercive decree. By erecting a heavy financial barrier and coupling it with a self-executing default clause, the Tribunal effectively provided that non-payment of a procedural cost would automatically validate an otherwise illegal and unreasoned ex-parte assessment order without any adjudication on merits. In our considered view, such a direction amounts to a clear abdication of the core appellate jurisdiction vested in the Tribunal under Section 254(1) of the Act and renders the statutory remedy of appeal under Section 253 illusory and nugatory.

II. FOUNDATIONAL FACTS

4. The genesis of the present dispute traces back to Assessment Year (AY) 2018–19 (Financial Year 2017–18). The first appellant, M/s Ajitnath Suppliers Private Limited, is a private limited company carrying on commercial service activities, while the second appellant acts as its director. For the relevant assessment year, the company filed its return of income on 31st October, 2018, disclosing a total income of ₹34,96,733/-, which was initially processed under Section 143(1) of the Act.

5. The proceedings took an adverse turn when the National Faceless Assessment Centre (Respondent No. 4) initiated reassessment proceedings under Section 147 read with Sections 144 and 144B of the Act, acting upon generalized intelligence reports alleging that certain Kolkata-based entities managed by a chartered accountant were acting as paper conduits for accommodation entries. Without conducting independent field inquiries, affording an effective opportunity of cross-examination, or giving credence to the primary books of accounts, the assessing authority locked its sights on an unsecured loan of ₹1,23,50,000/- received from M/s Excellent Infrabuild Private Limited. Invoking Section 68 of the Act, an ex-parte assessment order was finalized on 30th November, 2023, creating an aggregate tax demand of ₹1,81,74,868/-.

6. Carrying a sense of deep grievance against this high-pitched assessment, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals) [CIT(A)], National Faceless Appeal Centre (NFAC), via Form No. 35 on 12th January, 2024. Regrettably, due to systemic communication gaps and the digital complexities of the faceless regime, the first appellate authority dismissed the appeal ex-parte on 19th December, 2024, through a cryptic, unreasoned order that completely bypassed the mandatory safeguards enshrined under

Section 250(6) of the Act, thereby rubber-stamping the addition without issuing a speaking order.

7. Unfazed, the assessee knocked on the doors of the Income Tax Appellate Tribunal ('A' Bench, Kolkata) in ITA No. 334/Kol/2025. By the impugned order dated 23rd June, 2025, the Tribunal correctly diagnosed the fatal breach of natural justice committed by the CIT(A) and decided to set aside the order and remit the matter for *de novo* adjudication. However, as detailed hereinabove, the Tribunal shackled the remand with a cost of ₹1,00,000/- and a self-executing default clause. Caught in the throes of acute financial stringency and cash-flow constraints, the appellant company failed to deposit the said sum within the sixty-day window. Consequently, by operation of the Tribunal's conditional stricture, the doors of justice were shut, and the addition of ₹1.23 Crores stood automatically confirmed without a single line of adjudication on its merits.

8. Driven to the wall, the appellants approached this Court by presenting the instant memorandum of appeal under Section 260A of the Act on 23rd April, 2026. Because the certified copy of the ITAT order was received on 3rd December, 2025, an accompanying interlocutory application (GA No. 1 of 2026) was filed seeking condonation of a delay of 154 days. The application comprehensively explains that the delay was occasioned by unavoidable corporate formalities, internal board resolutions, the complete closure of this High Court during the winter vacation from 25th December, 2025 to 4th January, 2026, and sequential, meticulous consultations with the Advocate-on-Record and

Senior Counsel to draft and finalize the statutory pleadings. Simultaneously, the appellants filed GA No. 2 of 2026 seeking stay of the impugned ITAT order and consequential recovery proceedings.

III. SUBSTANTIAL QUESTIONS OF LAW AS PER MEMORANDUM OF APPEAL

9. The instant appeal is admitted and formulated on the following substantial questions of law as set out in the Memorandum of Appeal:

i. Whether the Hon'ble Tribunal erred in law in directing that upon non-payment of cost, the order of the Ld. CIT(A) shall stand automatically confirmed, thereby bypassing adjudication on merits and abdicating its appellate jurisdiction?

ii. Whether the imposition of a heavy monetary cost as a pre-condition for the adjudication of a statutory appeal is arbitrary, unreasonable, and violative of the vested right of appeal, thereby rendering the appellate remedy illusory and nugatory?

iii. Whether the Hon'ble Tribunal, having itself recorded a violation of the principles of natural justice, ought to have adjudicated the issues on merits or remanded the matter unconditionally instead of imposing punitive and coercive conditions?

iv. Whether the authorities below erred in law in sustaining the addition of ₹1,23,50,000/- under Section 68 of the Income Tax Act, 1961, despite the Appellant having discharged its initial onus regarding the identity, creditworthiness, and genuineness of the lender?

IV. SUBMISSIONS OF THE PARTIES

10. Mr. Amit Agarwal, learned counsel appearing on behalf of the appellants, forcefully opened his submissions by contending that the Income Tax Appellate Tribunal committed a fundamental error of law. He argued that once the Tribunal recorded a categorical finding that the assessee was condemned unheard by the first appellate authority, it was bound in law to set aside the order and restore the matter unconditionally. By imposing a punitive pre-condition of ₹1,00,000/- and stipulating an *"automatic confirmation"* upon default, the Tribunal acted completely without jurisdiction.

11. He further submitted that no provision under the Income Tax Act, 1961 empowers the Tribunal to impose coercive costs or to erect financial barriers that defeat a vested statutory right of appeal. He further urged that the underlying addition of ₹1,23,50,000/- under Section 68 is wholly perverse, as the appellant had duly discharged its initial evidentiary burden by establishing the identity, creditworthiness, and genuineness of the lender through contemporaneous banking and corporate records.

12. Addressing the delay of 154 days, Mr. Agrawal submitted that the explanation tendered in GA No. 1 of 2026 demonstrates sufficient cause, unblemished by any lack of bona fides or dilatory motives.

13. Per contra, Mr. Prithu Dudhoria, the learned Senior Standing Counsel representing the respondent Revenue stoutly supported the findings and directions of the authorities below. It was submitted that the assessee exhibited persistent non-cooperation throughout the original assessment proceedings before the Assessing Officer as well as during the appellate proceedings before the CIT(A). Therefore, the learned Tribunal acted well within its discretionary domain under Section 254(1) of the Act to regulate its docket and penalize systemic defaults.

14. The Revenue contended that the failure of the assessee to deposit the cost within the stipulated sixty-day window resulted in the automatic confirmation of the CIT(A)'s order by operation of the Tribunal's lawful directions, warranting no interference from this Division Bench.

V. DISCUSSIONS ON FACTS, LAW, AND CASES TO CONCLUDE THE SUBSTANTIAL QUESTIONS OF LAW

15. We have meticulously considered the rival submissions, perused the statutory records, and examined the settled legal position. Before entering upon the discussion on the substantial questions of law, we must determine GA No. 1 of 2026 regarding the delay of 154 days in presenting the appeal. It is a well-settled principle of law, as laid down by the Hon'ble Supreme Court in *Collector, Land Acquisition, Anantnag & Anr. v. Mst. Katiji & Ors.* [(1987) 2 SCC 107] that the expression *"sufficient cause"* under Section 5 of the Limitation Act, 1963 must receive a liberal, pragmatic, and justice-oriented construction. The law of limitation is designed not to destroy the rights of parties but to ensure that parties do not resort to dilatory tactics. The affidavit supporting GA No. 1 of 2026 comprehensively explains the time consumed in corporate compliance, internal board approvals, the winter vacation of this High Court, and professional legal consultations. We are satisfied that the delay was neither deliberate nor contumacious. Accordingly, GA No. 1 of 2026 is allowed, and the delay of 154 days stands condoned.

16. Turning to substantial questions of law (i), (ii), and (iii) concerning the competency of the Tribunal to impose conditional default clauses, it is well established that the Income Tax Appellate Tribunal is a statutory tribunal deriving its authority strictly from Section 254 of the Act. While Section 254(1) empowers the Tribunal to pass such orders thereon *"as it thinks fit,"* and Rule 32 of the Income-tax (Appellate Tribunal) Rules, 1963 confers procedural powers to regulate its proceedings and grant adjournments on terms including costs, such powers cannot be stretched to defeat substantive statutory rights. The expression *"as it thinks fit"* implies a judicial discretion to be exercised within the parameters of law, equity, and reason, and not an unbridled power to erect coercive financial barriers.

17. It is a cardinal principle of administrative and tax jurisprudence, firmly anchored in the constitutional mandate of Article 265 and Article 300A, that a right of appeal is a valuable statutory right. As held by the Hon'ble Supreme Court in *State of Gujarat v. Patel Raghav Natha* [(1969) 2 SCC 187] procedural provisions are meant to advance the cause of justice and cannot be converted into a trap to defeat substantive rights. While ordinary procedural costs may be imposed to compensate for inconvenience or delay, costs can never be transformed into a pre-condition for the very survival of an appeal, nor can non-payment be made a trigger for automatic confirmation of an invalid ex-parte assessment.

18. When the Tribunal itself recorded an unequivocal finding of fact that the CIT(A) had passed an order in breach of the principles of natural justice (*audi alteram partem*), the only legally permissible course was an unconditional remand to the First Appellate Authority for *de novo* adjudication. By attaching a penal default clause, stipulating that failure to pay costs of ₹1,00,000/- would result in automatic confirmation of the CIT(A)'s order, the Tribunal abdicated its core appellate duty to decide cases on merits or ensure proper adjudication below. Such a self-executing default clause creates an impermissible fetter on access to justice and renders the statutory remedy under Section 253 illusory.

19. Furthermore, the order of the First Appellate Authority was intrinsically vulnerable as it completely ignored the statutory mandate of Section 250(6) of the Act. Section 250(6) explicitly obligates the CIT(A) to state the points for determination, the decision thereon, and the reasons for the decision. As settled in *CIT, Bombay v. Walchand & Co. Private Ltd.* [(1967) 65 ITR 381 (SC)], an appellate authority exercising quasi-judicial powers must pass a speaking order reflecting application of mind. A non-speaking, summary confirmation of an assessment order by the CIT(A) is void in law, and the Tribunal could not have allowed such an invalid order to achieve automatic finality merely due to non-payment of a procedural cost.

20. On substantial question of law (iv) regarding Section 68 of the Act, it is settled law that Section 68 casts an initial onus on the assessee to establish three cumulative ingredients: *(a)* the identity of the lender, *(b)* the creditworthiness of the lender, and *(c)* the genuineness of the transaction (*vide CIT v. P.K. Noorjahan*, [(1999) 237 ITR 570 (SC)] and *CIT v. Precision Finance Pvt. Ltd.* [(1994) 208 ITR 465 (Cal)]). The record reflects that the appellant had submitted contemporaneous banking records and corporate details regarding the loan of ₹1,23,50,000/- from M/s Excellent Infrabuild Private Limited. The revenue authorities failed to conduct independent inquiries or dismantle the documentary evidence, relying instead on generalized third-party reports. Such an approach suffers from perversity, requiring proper factual evaluation by the CIT(A) upon full opportunity to the assessee.

21. Balancing the procedural default of the assessee with the imperative of dispensing substantive justice, we hold that while the Tribunal possesses inherent power to impose costs for procedural delays, such costs cannot be made a condition precedent resulting in automatic dismissal or confirmation. Consequently, substantial questions of law (i), (ii), and (iii) are answered in the affirmative, in favor of the assessee and against the Revenue; and substantial question of law (iv) is answered by holding that the merits of the addition under Section 68 require fresh, unhindered adjudication by the First Appellate Authority. The cost of ₹1,00,000/- is reduced to ₹25,000/-, and the automatic default confirmation clause is wholly quashed.

VI. CONCLUSION & CONSEQUENTIAL DIRECTIONS

22. Weighing the competing equities and keeping our gaze firmly fixed on the ultimate goal of dispensing substantive justice, we find that the conditional and automatic confirmation fetter imposed by the learned Tribunal in its impugned order dated 23rd June, 2025 is unsustainable in law, and the quantum of cost deserves mitigation. Consequently, we pass the following orders:

i. ITAT No. 120 of 2026 is allowed in part and GA No. 2 of 2026 stands disposed of.

ii. The impugned order dated 23rd June, 2025 passed by the Income Tax Appellate Tribunal, 'A' Bench, Kolkata, in ITA No. 334/Kol/2025 is modified to the limited extent that the cost of ₹1,00,000/- is reduced to ₹25,000/-, and the penal direction regarding the *"automatic confirmation"* of the CIT(A)'s order upon default is quashed and set aside.

iii. The modified cost of ₹25,000/- shall be deposited by the appellant with the *Legal Aid Services, High Court, Calcutta*, within a period of four (4) weeks from the date of receipt of a copy of this judgment, and proof of such deposit shall be produced before the CIT(A).

iv. The assessment proceedings stand restored unconditionally to the file of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), for a fresh, unhindered *de novo* adjudication on merits.

v. The Appellant-Assessee shall appear before the CIT(A) on the very first date of hearing as may be fixed, and shall extend absolute cooperation, placing on record all necessary books, bank statements, and corroborative evidence to establish the identity, creditworthiness, and genuineness of the unsecured loan transaction.

vi. The CIT(A) shall consider all documentary evidence submitted by the assessee and pass a reasoned, speaking order strictly in accordance with Section 250(6) of the Act within a period of twelve (12) weeks from the date of receipt of a server copy of this judgment.

vii. Until the fresh appellate order is passed by the CIT(A) in accordance with law, no coercive steps for the recovery of the demand arising from the addition of ₹1,23,50,000/- shall be pursued against the appellant.

23. Urgent certified web copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

I AGREE

(RAJARSHI BHARADWAJ, J.) **(UDAY KUMAR, J.)**