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**IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR BENCH, NAGPUR**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI G. MANJUNATHA, ACCOUNTANT MEMBER**

**ITA Nos. 182/NAG/2018
(Asst. Year : 2013-14)**

- 1 ITO, Ward-3(2), vs. Shri Gowardhan D. Chakole,
Ground floor, Saraf Plot no. 39. F. No. 103,
Chambers, Mount Shivranjini Appartment,
Road, Sadar, Congress Nagar, Nagpur-
Nagpur-440001 440012.

PAN No. AARPC1773F

**ITA No. 183/NAG/2018
(Asst. Year : 2010-11)**

- 2 ITO, Ward-3(2), Vs. Shri Sanjeev Digambar
Ground floor, Saraf Deshpande,
Chambers, Mount Flat No. 22, Asawari
Road, Sadar, Apartments North Ambazari
Nagpur-440001 Road, Nagpur-440019

PAN No. AAWPD9619A

**ITA No. 184/NAG/2018
(Asst. Year : 2013-14)**

- 3 ITO, Ward-3(2), Vs. Shri Sachin Mahadeorao
Ground floor, Saraf Bhagat,
Chambers, Mount 35, Uroovela Colony, Wardha
Road, Sadar, Road, Nagpur-440015
Nagpur-440001

PAN No. AKAPB6309B

**ITA No. 185/NAG/2018
(Asst. Year : 2013-14)**

- 4 ITO, Ward-3(2), Vs. Shri Rajgopalan Vardhanchari,
Ground floor, Saraf Aroshi Apartments, Spandan
Chambers, Mount nagar, N-4 CIDCO,
Road, Sadar, Aurangabad.
Nagpur-440001

PAN No. AASOC9495R

ITA No. 186/NAG/2018
(Asst. Year : 2009-10)

- 5 ITO, Ward-3(2), Vs. Shri Sudarshan Ramchand Ra
Ground floor, Saraf Bokade, 271, Vivek
Chambers, Sadar, Apartmetn, C. B. Road,
Nagpur-440001 Opposite Agriculture College
Hostel, Ram Nagar, Nagpur

PAN No. ABBPB1156C

ITA No. 187/NAG/2018
(Asst. Year : 2012-13)

- 6 ITO, Ward-3(2), Vs. Shri Rehan Ahmed Azmi,
Ground floor, Saraf G-2/103 Aman Heritage, Katol
Chambers, Sadar, Road Jafar Nagar, Nagpur
Nagpur-440001

PAN No. AIAPA1903A

ITA No. 188/NAG/2018

&

CO No. 23/Nagpur/2018

(Asst. Year : 2010-11)

- 7-8 ITO, Ward-3(2), Vs. Shri Sheshrao Namdeorao
Ground floor, Saraf Bhojar,
Chambers, Sadar, A-8, Vrundavan Appartment
Nagpur-440001 Bharat Nagar, Amravati Road,
Nagpur-440033

PAN No. ABQPB2764B

ITA No. 189/NAG/2018

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CO No. 16/Nagpur/2018

(Asst. Year : 2010-11)

- 9-10 ITO, Ward-3(2), Vs. Shri Rajendra Prabhakar
Ground floor, Saraf Thengdi,
Chamber, Sadar, Plot No. 40, Navodaya
Nagpur-440001 Appartments Chitale Marg,
Dhantoli, Nagpur-440012

PAN No. AAPPT1458C

ITA No. 190/NAG/2018**&****CO No. 17/Nagpur/2018****(Asst. Year : 2011-12)**

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| 11-
12 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Manoj N. Dongre,
State Bank of India, Computer
Section, IIIrd floor, Kigsway,
Nagpur-440001 |
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PAN No. ABHPD8468M

ITA No. 191/NAG/2018**&****CO No. 18/Nagpur/2018****(Asst. Year : 2012-13)**

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| 13-
14 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Sudhir Vithalrao
Kharbade,
State Bank Of India,
Vivekanand Nagar, Nagpur-
440015 |
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PAN No. AAZPK6485C

ITA No. 192/NAG/2018**&****CO No. 19/Nagpur/2018****(Asst. Year : 2010-11)**

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| 15-
16 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Mount
Road, Sadar,
Nagpur-440001 | Vs. | Smt. Pushpa H. Nimje,
25, Gajanan Nagar, Behind
Hindustan Colony, Wardh
Road, Nagpur, Nagpur-
440015 |
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PAN No. AALPN6703C

ITA No. 193/NAG/2018**(Asst. Year : 2011-12)**

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| 17 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Mount
Road, Sadar,
Nagpur-440001 | Vs. | Shri Anil Kesharao Bhagat,
C/305, Vaishali Apartment,
Tilak Nagar, Nagpur-440010 |
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PAN No. ABBPB0574G

**ITA No. 194/NAG/2018
&
CO No. 20/Nagpur/2018
(Asst. Year : 2010-11)**

18- 19	ITO, Ward-3(2), Ground floor, Saraf Chambers, Sadar, Nagpur-440001	Vs.	Shri Arvind Premchand Potdar, 73A, Mausam Society, Near-Departmental Representative. Rathi Clinic, Manish Nagar, Somalwada, Nagpur-440015
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PAN No. ACPPP5071P

**ITA Nos. 195/NAG/2018
(Asst. Years : 2011-12)**

20	ITO, Ward-3(2), Ground floor, Saraf Chambers, Sadar, Nagpur-440001	Vs.	Shri Subhash Udhaorao Meshram, 429 A, Hanuman Nagar, Nagpur-440009
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PAN No. ABHPM5505G

**ITA No. 196/NAG/2018
&
CO No. 21/Nagpur/2018
(Asst. Year : 2013-14)**

21- 22	ITO, Ward-3(2), Ground floor, Saraf Chambers, Sadar, Nagpur-440001	Vs.	Shri Jolly Abraham, 48, H.B. Estate, Sonegaon, Khamla, Nagpur, Nagpur-440072
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PAN No. ACEPA0325J

**ITA No. 197/NAG/2018
&
CO No. 22/Nagpur/2018
(Asst. Year : 2013-14)**

23- 24	ITO, Ward-3(2), Ground floor, Saraf Chambers, Sadar, Nagpur-440001	Vs.	Shri Gajendra Dashounath Sokusare, Plot No. 30, Wankhede Lay Out Umrer, Umrer, Nagpur-441203
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PAN No. AEYPS3485D

**ITA No. 198/NAG/2018
(Asst. Year : 2011-12)**

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| 25 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Gopal Shriram Band, Plot
No. 60, Shivaji Nagar,
Nagpur-440004

PAN No. ABOPB4037H |
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**ITA No. 199/NAG/2018
(Asst. Year : 2012-13)**

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| 26 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Rambhau Khisadya
Taktewale, 403-A, Rachana
Vishwa Apartment, K.T Nagar,
Katole Road, Nagpur-440009

PAN No. ADDPT1281E |
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**ITA Nos. 200/NAG/2018
(Asst. Years : 2010-11)**

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| 27 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Anil Sukhdeo Nitnaware,
3-Nagsen Nagar, Bhim Chowk
Nara Road, Nagpur-440014

PAN No. ABYPN9465D |
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**ITA Nos. 201/NAG/2018
(Asst. Year : 2011-12)**

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| 28 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Ramkrishan Parashram
Pimplikar, 49, H.B. Estate,
Sonegaon, Nagpur-440014

PAN No. ABVPP6274F |
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**ITA No. 202/NAG/2018
(Asst. Year : 2011-12)**

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| 29 | ITO, Ward-3(2),
Ground floor, Saraf
Chambers, Sadar,
Nagpur-440001 | Vs. | Shri Subroto A. B. Mukherjee,
House No. 130/6/A, Near
Corporation, Library, Sadar,
Nagpur-440014

PAN NO. ABZPM4935G |
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ITA No. 203/NAG/2018
(Asst. Year : 2010-11)

- 30 ITO, Ward-3(2), Vs. Shri Hasandas Itstari Dhone,
Ground floor, Saraf House No. 185/D/E, Vidya
Chambers, Sadar, Nagar, Near Modern School,
Nagpur-440001 Kordi Road, Nagpur-441111
- PAN No. AAOPD5378C

ITA No. 204/NAG/2018
(Asst. Year : 2010-11)

- 31 ITO, Ward-3(2), Vs. Shri Avinash Laxmikant Dani,
Ground floor, Saraf Plot No. 39, Process Server
Chambers, Sadar, Society, Swavalabai Nagar,
Nagpur-440001 Nagpur-440022
- PAN No. ABHPD7702L

ITA No. 205/NAG/2018
(Asst. Year : 2012-13)

- 32 ITO, Ward-3(2), Vs. Smt Annapurani Venkatessan,
Ground floor, Saraf Flat No. 6, Sai Krupa Public
Chambers, Sadar, Co-operative, Khamla Road,
Nagpur-440001 Sonegao Housing Society,
Shankar Nagar,
Nagpur-440010
- PAN No. AAMPV6867G

ITA No. 206/NAG/2018
(Asst. Year : 2010-11)

- 33 ITO, Ward-3(2), Vs. Shri Uday Rajendra Panse,
Ground floor, Saraf M-13, Tapysya, 64 MIG Qtr.
Chambers, Sadar, Nandanvan Colony, Nagpur-
Nagpur-440001 440009
- PAN No. AEOPP2711D
(Respondents)
- (Appellants)

Date of pronouncement : 28/11/2018.

ORDER**PER BENCH**

The above listed appeals at the instance of the Revenue are directed against the respective impugned orders passed by the respective Ld. Commissioner of Income Tax (Appeals) for respective Assessment Years as indicated above.

2. Since, the facts raised in all the appeals filed by the revenue are identical, therefore for the sake of convenience; they are clubbed, heard and disposed of by this consolidated order.

3. First of all we take up appeal filed in ITA No. 182/Nag/2018 for AY 2013-14 filed by revenue.

4. At the very outset, our attention was drawn towards letter dated 30.07.2018 which relates to condonation of delay of 329 days in filing appeal before Hon'ble ITAT.

5. In this respect, Ld. DR submitted that the Ld. CIT(A) had decided the appeal filed by the assessee on 22.06.17 and later on, the revenue had sent the matter for taking legal

opinion regarding filed of second appeal before Hon'ble ITAT. The Ld. CIT(A)-2 in his letter dated 06.06.18 had recommended for filing second appeal before Hon'ble ITAT and thus in this way, there was a delay of 329 days in filing the present appeal. It was also submitted that the delay on the part of revenue is purely bonafide because of the aforementioned reasons.

6. On the other hand, Ld. AR requested for dismissal of the said application.

7. We have heard the counsels for both the parties on the application for seeking condonation of delay and we have also perused the material placed on record as well as orders passed by the revenue authorities, we find that there is a low tax effect involved in this case and prima facie the appeal filed by the revenue is not maintainable and needs to be dismissed in limine in view of the amount disputed by the Revenue is less than the monetary limit of Rs. 20 lakh fixed by the CBDT in Circular No. 03/2018, dated 11/07/2018, which is in supersession of its Circular No. 21/2015 dated 10/12/2015, in

relation to filing of appeals before the Income Tax Appellate Tribunal.

8. Even as per the submissions of the revenue for seeking condonation of delay, it has clearly been admitted that Ld. CIT(A) had passed order on 22.06.17 and it cannot be said that those orders passed by Ld. CIT(A) were not within the knowledge and notice of the revenue. The only plea taken by the revenue is that in view of the order of Coordinate Bench of ITAT, the revenue had decided to seek legal opinion in respect of filing second appeal before the ITAT as previously the low tax effect involved in the matter. Further, the ACIT Range-3 had sent the matter for taking legal opinion regarding filing of appeal.

9. From the averments of the revenue, it is quite clear that the Coordinate Bench of ITAT had decided the case titled **State Bank Board of India Vrs DCIT on 04.04.10** i.e. approximately 7 years prior to passing the order of Ld. CIT(A) in the present case. Therefore this ground raised by the revenue did not hold bonafide.

10. Further, the revenue has no where mentioned that when the order in the case of **State Bank Board of India Vrs DCIT on 04.04.10** came to the knowledge and when again the matter was sent for seeking legal opinion. No such details have been

explained or mentioned by the revenue, but the revenue has preferred to only mentioning the letter dated 06.06.18 send by Ld. CIT(A)-2 to ACIT Range-3 for filing appeals, which was ultimately filed on 30.07.18.

11. We find that the application filed by the revenue is not even supported by any affidavit of any officials. It is an undisputed fact that even in the case of **State Bank Board of India Vrs DCIT**, the revenue was of the party and even in the present case, the persons concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing the appeal before Tribunal. The revenue cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are of the view as to why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

12. The Hon'ble Supreme Court in the case of **Postmaster General v. Living Media India Ltd. (2012) 3 SCC 563**,

has deprecated the casual attitude of government departments in taking steps to file appeals within reasonable time in the following words:

"26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that, from day one the Department or the person/persons concerned have not convinced diligence in prosecuting the matter to this Court by taking appropriate steps.

27. It is not in dispute that the person(s) concerned, were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation" when the

Department was possessed with competent "persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of

procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

13. Apart from above in ***State of Uttar Pradesh v. Amar Nath Yadav (2014) 2 SCC 422*** while reiterating the above decision, the Supreme Court declined to condone the delay of 481 days in the State filing a special leave petition against the judgment of the High Court of Allahabad.

14. Consequently, we are not satisfied with the reasons for delay of 329 days in filing the appeal. Even otherwise on the

perusal of the record, we are prima facie of the view that the present appeal is not maintainable on account of low tax effect and needs to be dismissed in limine in view of the amount disputed by the Revenue is less than the monetary limit of Rs. 20 lakh fixed by the CBDT in Circular No. 03/2018, dated 11/07/2018, which is in supersession of its Circular No. 21/2015 dated 10/12/2015, in relation to filing of appeals before the Income Tax Appellate Tribunal.

15. Thus in view of our above discussion, we **dismiss** the application filed by the revenue for condonation of delay. Resultantly, the appeal filed by the revenue stands **dismissed**.

16. Since we have already decided the appeal filed by the revenue in ITA No. 182/Nag/2018 for AY 2013-14 on merits and the grounds raised in other appeals are identical to that of appeal No. 182/ Nag/2018. Therefore following our own decision in ITA No. 182/ Nag/2018, we apply the same findings in other appeals filed by the revenue in order to maintain judicial consistency which is applicable mutatis mutandis. Resultantly, the other appeals filed by the revenue also stands **dismissed**.

17. In the net result, all the above listed appeals and Cross Objections filed by the Revenue as well as assessee stands **dismissed**. Registry is directed to inform the parties accordingly.

Order Pronounced in open Court on this 28th Nov, 2018.

Sd/-
(G. MANJUNATHA)
Accountant Member

Sd/-
(SANDEEP GOSAIN)
Judicial Member

Dated : 28th November, 2018.

Sr.PS.Dhananjay

Copy to:

1. The Assesseees -

- 1) Shri Gowardhan D. Chakole
- 2) Shri Sanjeev Digambar Deshpande,
- 3) Shri Sachin Mahadeorao Bhagat,
- 4) Shri Rajgopalan Vardhanchari, Aroshi Apartments
- 5) Shri Sudarshan Ramchand Ra Bokade
- 6) Shri Rehan Ahmed Azmi,
- 7) Shri Sheshrao Namdeorao Bhoyar
- 8) Shri Rajendra Prabhakar Thengdi,
- 9) Shri Manoj N. Dongre
- 10) Shri Sudhir Vithalrao Kharbade,
- 11) Smt. Pushpa H. Nimje,
- 12) Shri Anil Kesharao Bhagat
- 13) Shri Arvind Premchand Potdar
- 14) Shri Subhash Udharao Meshram
- 15) Shri Jolly Abraham,
- 16) Shri Gajendra Dashounath Sokusare,
- 17) Shri Gopal Shriram Band
- 18) Shri Rambhau Khisadya Taktewale,
- 19) Shri Anil Sukhdeo Nitnaware,
- 20) Shri Ramkrishan Parashram

- 21) Shri Subroto A. B. Mukherjee
- 22) Shri Hasandas Itstari Dhone
- 23) Shri Avinash Laxmikant Dani
- 24) Smt Annapurani Venkalessan,
- 25) Shri Uday Rajendra Panse

- 2. *The Revenue*
- 3. *The CIT(A)*
- ~~4.~~ *Guard file.*

- 3. *The CIT.*
- 5. *The D.R., Nagpur.*

By order