

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, 'A' CHANDIGARH**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND  
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. 730,763,764/CHD/2024

निर्धारण वर्ष / A.Y: 2017-18, 2018-19, 2018-19

Ch. Lekh Raj Educational and Charitable Trust, 111, Santpura Road, Model Town, S.O. Yamuna Nagar.	Vs	The ACIT (Exemptions), Circle – 2, Chandigarh.
स्थायी लेखा सं./PAN NO: AAATC9657M		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri B.M.Monga and Shri Rohit Kaura, Advocates  
Revenue by : Shri Chandrajit Singh, CIT DR

Date of Hearing : 20.01.2025

Date of Pronouncement : 22.01.2025

**VIRTUAL HEARING**

**ORDER**

**PER RAJ PAL YADAV, VP**

The present three appeals are directed at the instance of the assessee against the separate orders of the Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 29.04.2024 passed in assessment year 2017-18 (ITA 730/CHD/2024), dated 17.05.2024 passed in assessment year 2018-19 (ITA No. 764/CHD/2024) and the impugned

order of Id. CIT(A) dated 14.05.2024 passed in assessment year 2018-19 (ITA No.763/CHD/2024). This appeal has arisen against a proceeding for visiting the assessee with penalty under Section 270A of the Income Tax Act.

2. A perusal of the record would reveal that facts in all these appeals are common. Therefore, we took all the appeals for deciding with this common order. It reveals that ITA 730/CHD/2024 is time barred by 282 days, ITA 764/CHD/2024 is time barred by 314 days and ITA 763/CHD/2024 is time barred by 131 days. The explanation of the assessee for explaining the delay in all these three appeals is common. Therefore, we take note of this explanation from ITA 730/CHD/2024 which is reproduced in the impugned order. Similar explanations are being reproduced in other orders also by the Id. First Appellate Authority. The relevant page read as under :

*Sub: Prayer for condonation of delay of 282 days in filing of appeal for the A.Y. 2017-18.*

1. *That the order of learned assessing officer dated 28.04.2023 was uploaded on E-portal on 28.04.2023 itself.*
2. *That the students are not opting for Engineering and Polytechnic Courses in towns and also there was a glut of such institutes; almost all the engineering colleges and polytechnic institutes are closed. Moreover, most of the Colleges/Governing bodies have defaulted in repayment of loans to the financial*

*institutions and Banks who have taken over these colleges including the applicant assessee. Also, Ch. Rajinder Kumar, the Chairman of the Trust who was looking after the affairs of the Trust left for his heavenly abode on 19.08.2022 and thereafter almost all the institutes being run by the Trust are closed. The office staff either left the job or were terminated. There was no one in the office to attend to the notices etc. which were received through dak or even on mail or through portal. Hence, we could not inform our counsel also due to oversight and he could not file the appeal in time. It was only when we received penalty notices that we contacted our counsel and found that the appeal has not been filed.*

3. *That as submitted in above Paras, the delay was not intentional and we have not gained any benefit in late filing of appeal and we are keenly interested to pursue the appeal filed on merits.*

*Resultantly, it is humbly submitted that the delay of 250 days deserves to be condoned.*

4. *Your kind attention is invited to the following decisions of different courts which suggest that if there is no ill intention and the assessee is not benefited in filing the appeal belatedly; the delay should be condoned as held in the case of:*

- i. Improvement Trust Ludhiana vs. Ujagar Singh & Ors Civil Appeal No. 2395 of 2008 of June 9, 2010 - (AIRONUNE 2010 SC 228)*
- ii. Jayvantsinh N Vaghela vs. Income Tax officer [2013] 40 Taxmann.com 491 (Gujarat)*
- iii. Paras Rice Mills Kurukshetra vs. CIT Kamal ITA No. 657 of 2009 (P&H)*
- iv) Basant Sekhani vs. Income Tax officer [2023] 108 ITR(Trib) 14 (ITAT Surat)*

*The prayer is for condoning the delay in accordance with the facts and circumstances of the case. Your honor is humbly requested to condone the delay of 282 days in filing of appeal for the A.Y. 2017-18 and hear the appeal on merits of the case.*

*Thanking You Yours faithfully  
For Ch. Lekh Raj Educational & Charitable Trust, Sd/-  
(Satpal Singh), Secretary  
APPELLANT*

3. With the assistance of ld. Representative, we have gone through the record carefully. Sub-section 5 of Section 253

contemplates that the Tribunal may admit an appeal or permit filing of memorandum of cross-objections after expiry of relevant period, if it is satisfied that there was a sufficient cause for not presenting it within that period. This expression sufficient cause employed in the section has also been used identically in sub-section 3 of section 249 of Income Tax Act, which provides powers to the Id. Commissioner to condone the delay in filing the appeal before the Commissioner. Similarly, it has been used in section 5 of Indian Limitation Act, 1963. Whenever interpretation and construction of this expression has fallen for consideration before Hon'ble High Court as well as before the Hon'ble Supreme Court, then, Hon'ble Court were unanimous in their conclusion that this expression is to be used liberally. We may make reference to the following observations of the Hon'ble Supreme court from the decision in the case of Collector Land Acquisition Vs. Mst. Katiji & Others, 1987 AIR 1353:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a

meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.
6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it

is capable of removing injustice and is expected to do so.

4. Similarly, we would like to make reference to authoritative pronouncement of Hon'ble Supreme Court in the case of N. Balakrishnan Vs. M. Krishnamurthy (supra). It reads as under:

*“Rule of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finislitium (it is for the general welfare that a period be putt to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time. A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi lain Vs. Kuntal Kumari [AIR 1969 SC 575] and State of West Bengal Vs. The Administrator, Howrah Municipality [AIR 1972 SC 749]. It must be*

*remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss”.*

5. In the light of above, if we peruse the explanation given by the assessee, then it revealed that Chairman of the Trust Shri Rajinder Kumar expired on 19.08.2022. Thereafter, nobody was there to look after the affairs of the assessee and due to that the litigation with the Income Tax Department was not prosecuted properly. We find that there is no malafide intention at the end of the assessee and delay was not adopted as a strategy to litigate with the Department. It happened because Institutions run by the assessee closed down on account of non availability of the students and death of the Chairman of the Trust. These facts may lead to some lack of vigilance of the Management of the Trust. However, if we look into the demands raised by the Revenue

against the assessee, then the punishment in the shape of tax liability is far more disproportionate than the negligence, if any committed by the assessee in prosecuting the litigation with the revenue. Therefore, we condone the delay in filing appeal before CIT(A) and restore all these appeals to the Id. CIT(A) for deciding them on merit. The assessee is directed to cooperate with the Id. CIT(A) and submit requisite details well in time. The assessee is further directed to file an application before the CIT(A) alongwith copy of this order for taking up the proceedings within two months from receipt of this order.

5. In the result, all the three appeals are allowed.

Order pronounced on 22.01.2025.

Sd/-

**(KRINWANT SAHAY)**  
**ACCOUNTANT MEMBER**

Sd/-

**(RAJPAL YADAV)**  
**VICE PRESIDENT**

“Poonam”

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 आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar