

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

**Before Shri Inturi Rama Rao, Accountant Member
&
Shri Prakash Chand Yadav, Judicial Member**

ITA No.311/Coch/2024 : Asst.Year 2009-2010

Punjab National Bank Palace Road Branch Thrissur – 680 020. PAN : AAACP0165G.	v.	The Income Tax Officer (TDS), Thrissur.
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Smt.Leena Lal, Sr.AR

Date of Hearing : 20.01.2025.	Date of Pronouncement : 19.02.2025
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee is arising from the order of the learned Commissioner of Income-tax (Appeals) dated 15thFebruary, 2024 and relates to the assessment year 2009-2010 having DIN & Order No.ITBA/APL/S/250/2023-24/1060970704(1).

2. At the outset we observe that there is a delay of 550 days before the ld.CIT(A) and hence the ld.CIT(A) has dismissed the appeal of the assessee holding that the assessee failed to explain the reasons for the delay of 550 days. The ld.CIT(A) held that no reasons have been cited before him much less constituting sufficient cause for the condonation of delay.

3. Today when the matter has been called for hearing no one appeared on behalf of assessee despite service of notice. Therefore, we are deciding the matter on the basis of material available on record.

4. The learned Departmental Representative relied upon the orders of the authorities below.

5. We have heard the rival submissions and perused the material available on record. We observe that the present appeal is related to an order passed u/s.201 of the Income-tax Act, 1961. The Assessing Officer has passed the order u/s.201 on 29thMarch, 2016, against that order, the assessee preferred an appeal before the Id.CIT(A) on 1stNovember, 2017. There was a delay of 550 days before the Id.CIT(A). In such types of cases, the Hon'ble Apex Court has held time and again that the discretion for condoning the delay has to be exercised strictly. We further observe that the assessee has given a very vague reason before the Id.CIT(A) for the delay of 550 days. The main reason given by the assessee was that his consultant advised him to file an application for rectification u/s.154 instead of filing appeal before the Id.CIT(A). We cannot shut our eyes on the fact being a Nationalized Bank the assessee must have battery of lawyers for the proper advice in taxation matters. Here we would like to make a reference to the judgment of the Hon'ble Supreme Court in the case of Post Master General v. Living Media India Ltd. (2012) 20 taxmann.com 347, wherein the Hon'ble Supreme Court in para 12 & 13 has observed as under:-

12. *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. 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*

13. *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. 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."*

6. Perusal of the above observation of the Hon'ble Supreme Court would show that the Supreme Court has categorically held that the Government Departments are under special obligation to ensure that they are performing their duties with diligent and commitment. Therefore, we do not find any merit in the prayer of the assessee and affirm the order of the ld.CIT(A). Before parting, we would also like to make a reference to the recent judgment of the Hon'ble Supreme Court

in the case of Pathapati Subba Reddy reported in (2024) 4 SCR 241. In this case also, the Hon'ble Supreme court has held that the Court should not condone delay in the cases of inordinate delay and negligence. Therefore, we do not find any merit in the present appeal.

7. In the result, the appeal filed by the assessee is dismissed.

Order pronounced on this 19th day of February, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 19th February, 2025.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT, Cochin.
4. The DR, ITAT, Cochin.
5. Guard File.

Asst.Registrar/ITAT, Cochin