

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “F”, MUMBAI  
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 5348/MUM/2024 (A.Y: 2016-17)**

**Mangala Suresh Sonawane,** ITO 41(1)(3)  
106/107, Shiwah Building, Skyline Vs. Kautilya Bhawa, BKC,  
Oasis Complex, Behind D Mart, Mumbai.  
Vidya Vihar West, Mumbai – 400  
086

**PAN: DBCPS9343L**

**(Appellant)**

**(Respondent)**

<b>Assessee Represented by</b>	<b>:</b>	<b>None</b>
<b>Department Represented by</b>	<b>:</b>	<b>Ms. Kanupriya Damor, Ld. DR</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>02.01.2025</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>13.01.2025</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal is filed by the appellant/assessee against the order dated 26.07.2024 of Learned Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre, Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “*the Act*”] for the A.Y. 2016-17, wherein the



appeal of the assessee was dismissed by the Ld. CIT(A) as not maintainable because it was found that the appeal has been filed beyond the time limit permitted u/s. 249 of the act without any sufficient cause for condonation of delay.

2. It is brought to our notice that there was sufficient cause for condonation of delay as mentioned in form no. 35 and the impugned order passed by Ld. CIT(A) which are extracted as under: \_

*“Assessee is an uneducated lady was not having knowledge of income tax proceedings and submission was missed by her. She came to know about this after her daughter in law received call regarding outstanding demand. Assessee requests your honor to condone the delay in filing of appeal”*

Therefore, the impugned order is liable to be set aside and an opportunity of hearing need to be granted.

3. The Ld. DR has relied upon the judgment of the Ld. CIT(A) stating that there was no sufficient cause for condonation of delay and the judgment is legally perfect.
4. We have considered the submissions made by Ld. DR as well the material placed on record. The observation of the Ld. CIT(A) shows that the Ld. CIT(A) has adopted a hyper-technical approach while



considering the grounds of condonation of delay in the case of the appellant.

5. The right of appeal to the Ld. CIT(A) u/s. 248 is a statutory right granted to the appellant/assessee. The statutory right cannot be denied to an assessee unless there is inordinate delay or gross negligence on the part of the assessee. It is settled law that the rules and procedure is handmade of justice and the adjudicating authorities should not deny a statutory right of appeal on technical grounds.
6. Nothing contrary has been brought on record by the respondents which may contradict and falsify facts alleged by the appellant in support of seeking condonation of delay. The Hon'ble Supreme Court in the case of **Collector, Land Acquisition Vs. MST. Katiji&Ors., [1987] 167 ITR 471 (SC), dated 19.02.1987**, was pleased to hold regarding the condonation of delay as under:

*“The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits”. The expression “sufficient cause” employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making of justifiably liberal approach in matters instituted*



*in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.*

*And such a liberal approach is adopted on principle as it is realized that:*

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.”*
7. In the facts and circumstances as discussed above and because of the law laid down by the Hon’ble Supreme Court in *Collector, Land Acquisition Vs. MST. Katiji & Ors* (supra), we are of the considered opinion that there was sufficient cause for condoning the delay for filing this appeal before the Ld. CIT(A) by the assessee.
8. For the above reasons, the impugned order of the Ld. CIT(A) is not sustainable in the eyes of law and accordingly set aside with the directions to restore the case of the assessee on the file of Ld. CIT(A) who shall dispose the same on merit after duly considering the material brought on record by the appellant before the Ld. CIT(A). The appellant/assessee shall present its case before the Ld. CIT(A) within 90 days of this order.



9. In the result, appeal filed by the assessee is **allowed for statistical purposes.**

**Order pronounced in the open court on 13.01.2025**

Sd/-  
**(OM PRAKASH KANT)**  
**(ACCOUNTANT MEMBER)**  
Mumbai / Dated 13.01.2025  
*Dhananjay (Sr. PS)*

Sd/-  
**(RAJ KUMAR CHAUHAN)**  
**(JUDICIAL MEMBER)**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mumbai**