

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA Nos. 781 to 785/Ind/2024
(AYs: 2017-18, 2018-19, 2014-15 & 2016-17)

&

ITA Nos. 787 to 792/Ind/2024
(AYs: 2016-17, 2017-18 & 2018-19)

Shree Rajendra Suri Sah Sakh Santha Myd., Diamond Park Colony, Rajgarh, Dhar	<u>बनाम/</u> Vs.	ITO, Dhar
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AABAS6487M		
Assessee by	Shri S.N. Agrawal & Shri Ritesh Jain, ARs	
Revenue by	Shri Ram Kumar Yadav, CIT-DR	
Date of Hearing	19.03.2025	
Date of Pronouncement	24.03.2025	

आदेश / O R D E R

Per B.M. Biyani, AM:

1. This bunch of 11 appeals is filed by assessee for A.Y. 2014-15, 2016-17 to 2018-19. Brief details of these appeals are as under:

Shri Rajendra Suri Sah Sakh Santha Myd.
ITA Nos.781 to 785/Ind/2024 & 787 to 792/Ind/2024 - AY. 2014-15, 2016-17 to 2018-19)

ITA No.	A.Y.	Order of first- appeal passed by CIT(A), National Faceless Appeal Centre, Delhi <i>["impugned order"]</i>	Original assessment- order/penalty- order passed by AO	Date of filing first- appeals before CIT(A)	Delay in filing first- appeal	Proceeding in the matter of
781/Ind/2024	2017-18	Order dated 28.08.2024	Assessment-order dated 08.12.2019	23.09.2023	1355 days	Assessment u/s 144
782/Ind/2024	2017-18	Order dated 28.08.2024	Penalty-order dated 12.02.2022	23.09.2023	558 days	Penalty u/s 271AAC(1)
783/Ind/2024	2018-19	Order dated 28.08.2024	Assessment-order dated 21.04.2021	25.09.2023	857 days	Assessment u/s 144
784/Ind/2024	2014-15	Order dated 28.08.2024	Penalty-order dated 24.12.2019	20.09.2023	1336 days	Penalty u/s 271(1)(c)
785/Ind/2024	2016-17	Order dated 28.08.2024	Penalty-order dated 21.09.2022	21.09.2023	335 days	Penalty u/s 271(1)(b)
787/Ind/2024	2016-17	Order dated 28.08.2024	Assessment-order dated 21.03.2022	21.09.2023	519 days	Assessment u/s 147 r.w.s. 144
788/Ind/2024	2016-17	Order dated 28.08.2024	Penalty-order dated 27.09.2022	21.09.2023	329 days	Penalty u/s 271(1)(c)
789/Ind/2024	2017-18	Order dated 28.08.2024	Assessment-order dated 22.03.2023	25.09.2023	157 days	Assessment u/s 144 r.w.s. 263
790/Ind/2024	2016-17	Order dated 28.08.2024	Assessment-order dated 28.12.2018	21.09.2023	1698 days	Assessment u/s 143(3)
791/Ind/2024	2017-18	Order dated 28.08.2024	Penalty-order dated 12.02.2022	23.09.2023	558 days	Penalty u/s 270A
792/Ind/2024	2018-19	Order dated 28.08.2024	Penalty-order dated 14.02.2022	25.09.2023	924 days	Penalty u/s 270A

2. Since these appeals have identical facts, they were heard together and are being disposed by this consolidated order for the sake of convenience and brevity.

3. At the start of hearing, Ld. AR of both sides agree that the CIT(A) has disposed of first-appeals in all these matters *ex-parte* to assessee due to non-representation and while doing so, the CIT(A) has dismissed those first-appeals on account of inordinate delay in filing. The details of original assessment-orders/penalty-orders passed by AO against which those first-appeals were filed to CIT(A), the dates of filing first-appeals before CIT(A) and the delay periods (in number days) are given in the Table in Para 1 above.

4. Ld. AR for assessee next submitted that the assessee is a society and the delay in filing first-appeals before CIT(A) had occurred due to deadlock in management of assessee. He pointed out that a delay of 1516 & 1693 days also occurred in filing second appeals by assessee for earlier AYs 2013-14 & 2014-15, **being ITA No. 360 & 361/Ind/2023**, before ITAT, Indore bench for the very same reason of 'deadlock in management' for a period of more than 4 years and those appeals have already been decided by ITAT, Indore vide **order dated 28.10.2024** wherein the delay has been condoned, copy of ITAT's order is filed before Bench. He pointed out that in the matters decided by ITAT, Indore, the appeals were filed by assessee on 22.09.2023 against orders dated 31.05.2019 & 04.12.2018 and in present matters, the appeals were filed before CIT(A) during the period 20.09.2023 to 25.09.2023

against assessment-orders/penalty-orders dated 28.12.2018 to 22.03.2023 passed by AO. Hence, the range of delays on account of deadlock in management is same as considered by ITAT. Therefore, in present matters, the CIT(A) should be directed to give the benefit of ITAT's order for condonation of delay and the CIT(A) be further directed to decide the assessee's first-appeals on merit. Accordingly, Ld. AR prayed to re-store these matters at the level of CIT(A) with necessary directions. The relevant paras of **order dated 28.10.2024 of ITAT, Indore** relied by Ld. AR are reproduced below:

"2. There is a delay of 1516 days in filing the appeal for A.Y.2013-14 & 1693 days in filing the appeal for A.Y.2014-15. The assessee has filed applications for condonation of delay which are supported by affidavits of the Chairman of the assessee society. Ld. AR of the assessee has submitted that an FIR was registered on 30.08.2019 against the President of the assessee society and consequently a complaint was also filed in the office of Registrar of Cooperative Societies regarding financial irregularities. He has further submitted that as many as seven FIRs were registered against the office bearers and particularly the president of the assessee society for alleged financial irregularities committed by the office bearers. The management committee of the assessee society was then suspended by the office of Registrar of Cooperative Societies vide order dated 15.10.2019 with the direction to the office bearers of the assessee to vacate office with immediate effect as a result of which functioning of the assessee society came to a standstill. The Ld. AR has further submitted that during the re-investigation carried out by the office of the Deputy Commissioner of Cooperative Society found that no irregularities have been committed in the assessee society and consequently vide order dated 21.10.2022 the management committee of the assessee society was restored. Ld. AR has further submitted that the President of the assessee society approached the Hon'ble High Court for quashing of the FIRs and vide order dated 25.08.2023. The Hon'ble High Court in writ petition no.9623 of 2023 quashed all the seven FIRs filed against the president of the Cooperative Society. Thus, Ld. AR has submitted that due to this abnormal development of registration of FIRs, suspension of the management committee, vacating the office by the office bearers of the assessee for a long time the function of the assessee society remain standstill for long time and only after quashing of FIRs by the Hon'ble High Court vide order dated 25th August 2023 the elections were conducted in the assessee society and a new management committee was elected to the office on

13.09.2023. Thereafter, the assessee society commenced its normal functioning and came across the fact that several orders had been passed by the Income Tax Authorities during this period. Since this fact came to the knowledge of the management of the assessee society, they consulted a senior counsel who advised them to immediately file appeals before Tribunal against the impugned orders of CIT(A) and hence, these appeals have been filed by the society after delay of 1516 days & 1693 days for A.Ys. 2013-14 & 2014-15 respectively. He has thus submitted that there was no malafide or deliberate delay in filing these appeals and therefore, the delay may be condoned and appeals of the assessee be admitted for adjudication on merits.

2.1 He has relied upon the decision of Hon'ble Bombay High court in case of Vijay Vishan Meghani vs. DCIT 398 ITR 250 and submitted that the Hon'ble High Court has held that none should be deprived of an adjudication on merits unless the court of law or the Tribunal/Appellate Authority found that litigant deliberately and intentionally delayed filing of appeal. In the said case the Hon'ble High Court has condoned the delay of 2984 days. He has then relied the judgment of Hon'ble Supreme Court in case of Improvement Trust vs. Ujagar Singh Civil Appeal Nos.2395 of 2008 dated 26.06.2010 and submitted that it was held that while considering application for condonation of delay each case has to be weighed from its facts and circumstances. Further while considering the cause of delay the conduct, behaviour and attitude of the litigant has to be taken into consideration whether the delay is due to callous and negligent conduct of litigant or not. Ld. AR has thus submitted that unless malafides are writ large on the conduct of the party, generally as a normal rule, delay should be condoned. He has also relied the judgment of Hon'ble Supreme Court in case of Collector Land Acquisition Anantnag & Anr. Vs. Mst. Katiji & Ors 62 CTR (SC) 23. Thus, Ld. AR has prayed that the delay in filing these appeals may be condoned.

3. On the other hand, Ld. DR has submitted that as per the record of the CIT(A) the order of the CIT(A) for A.Y.2014-15 was served on the assessee society on 07.01.2019 however, no record is found for the service of the order for assessment year 2013-14. Thus, Ld. DR has submitted that the impugned order for A.Y.2014-15 was served on the assessee before FIRs were filed against the President of the assessee society but no steps were taken for filing the appeal. He has further submitted that there is inordinate delay and no plausible reason have been explained by the assessee for not taking steps for a long period of around 4 ½ years. Thus, Ld. DR has opposed to condonation of delay.

4. We have considered rival submission as well as relevant material on record. The impugned orders were passed on 31st May 2019 & 4th December 2018 respectively. The assessee has explained that due to suspension of the management committee and registration of the FIRs against the President of the assessee society the office of the assessee society was not functioning for long time till the FIRs were quashed by the Hon'ble High Courts vide judgment dated 25th August 2023. Thereafter fresh elections were conducted for the management committee as per order of the office of registrar of Cooperative

Societies. We find that there was an allegation of financial irregularities against the management committee and particularly president of the assessee society which led to the investigation by the office of the registrar of Cooperative Societies and also filing as many as seven FIRs against the Shri Suresh Tate President of the assessee society. The Hon'ble High Court judgment vide dated 25th August 2023 in writ petition no.9623 of 2023 has given the details of the FIR registered against the President of the assessee society as under:

S.no.	Date of registration of FIR	FIR no.	Police Station	Registered by
1	30.08.2019	391/2019	Rajgarh Dist. Dhar	Res. No.2
2	25.09.2019	424/2019	Amjhera Dist. Dhar	Res. No.3
3	15.10.2019	439/2019	Sardarpur Dist. Dhar	Res. No.4
4	16.12.2019	289/2019	Rajod Dist. Dhar	Res. No.5
5	04.01.2020	13/2020	Kukshi Dist. Dhar	Res. No.6
6	17.01.2020	30/2020	Kanvan Dist. Dhar	Res. No.7
7	21.07.2020	229/2020	Bag, Dist. Dhar	Res. No.8

4.1 The deputy registrar of Cooperative Societies, Dist. Dhar vide order dated 15.10.2019 suspended the management committee of the assessee society and office bearers of the assessee society were disqualified for six years to participate or holding any position in the management of this society. Thus, these facts are not in dispute that the management of the assessee society remained suspended from October 2019 till fresh elections were conducted and approved by the office of the registrar of Cooperative Societies vide order dated 13.09.2023. Therefore, for almost four years the assessee society remain non-functional due to suspension of the management which was taken over by the department of Cooperative Societies of M.P. State Government only after the seven FIRs were quashed by the Hon'ble High Court vide order dated 25th August 2023 a new management has come into existence and office of the assessee society begins normal function. Ld. AR of the assessee has filed the record to show that the assessee has obtained copies of the impugned order from the office of the CIT(A) for filing the appeal only after the new management come into existence. Therefore, the series of events of complaint against the management of assessee society, registration of FIRs, suspension of the management for almost four years led to the delay in filing these appeals. Once the reasons explained by the assessee are factually correct then the length of delay cannot be a sole reason for declining

the condonation of delay ignoring the fact that there is no malafide or deliberate act on the part of the assessee society for delay in filing these appeals. There is no quarrel on the point that the expression "sufficient cause" must construed liberal in favour of the litigant approached the court belatedly so that the dispute could be decided as far as possible on merits and not on technicalities. At the same time litigant is not allowed to use the process of law to achieve an ulterior purpose in under hand way by filing the appeal belatedly. Therefore, the concept of liberal interpretation of expression "sufficient cause" would not obliterate the requirement of some reasonable cause to justify the delay specially when there is an inordinate delay. In the case in hand the assessee has explained the reason which are beyond the control of the assessee therefore, it was not possible for the assessee to file these appeals within the period of limitation when there were grave and serious developments of suspension of the management committee of the assessee society and registration of multiple FIRs against the President of the society. Further in between there is in advent of Covid 2019 pandemic from March 2020 to Feb, 2022. On considering the explanation of the assessee is not found as vague or contrary to the facts and circumstances emerging from record including judgment of Hon'ble jurisdictional High court quashing the FIRs registered against the President of assessee society we are of the opinion that the reasons explained by the assessee are not falling in the category of malafide or deliberate delay on the part of the assessee to achieve an ulterior purpose or an attempt to save a limitation in under hand way. Hence, in the facts and circumstances of the case as well as the decision relied upon by the Ld. AR of the assessee we condoned the delay of 1563 days in filing of appeal for A.Y.2013-14 & 1693 days in filing the appeal for A.Y.2014-15."

5. Ld. DR did not have any objection if the prayer of Ld. AR is carried out.
6. In view of above submissions of parties, we set aside these matters back to the file of CIT(A). We direct the CIT(A) to firstly resolve the issue of delay in filing first-appeals following the tune of aforesaid order of ITAT, Indore and thereafter proceed to decide assessee's first-appeals on merit. Needless to mention that the CIT(A) shall give necessary hearings to assessee and the assessee shall avail those opportunities without seeking unnecessary adjournments failing which the CIT(A) shall be at liberty to pass orders in accordance with law.

7. Resultantly, all these appeals are allowed for statistical purposes.

Order pronounced in open court on 24/03/2025

Sd/-
(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/ Dated : 24/03/2025

Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore