

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

BEFORE

**SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT
MEMBER**

ITA No.1366/Hyd/2024		
Assessment Year: 2017-18		
Employees Provident Fund Organisation Staff Co-op Society Ltd., Barkatpura, Hyderabad. PAN : AAAAE1453C (Appellant)	Vs.	Income Tax Officer, Ward -4(1), Hyderabad. (Respondent)
Assessee by:	Shri S. Rama Rao, Advocate.	
Revenue by:	Dr. Sachin Kumar, Sr.A.R.	
Date of hearing:	02/04/2025	
Date of pronouncement:	07/04/2025	

ORDER

PER MADHUSUDAN SAWDIA, A.M.

This appeal is filed by Employees Provident Fund Organisation Staff Co-op Society Ltd., ("the assessee") feeling aggrieved by the order passed by the Learned Addl/Joint Commissioner of Income Tax (Appeals) – 11, Mumbai ("Ld. First Appellate Authority"), dated 04.09.2024 for the A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal :

1) The order of the learned Addl. CIT (A)-11, Mumbai is erroneous both on facts and in law.

2) The learned JCIT erred in not allowing the petition for condonation of delay of 37 days in filing the appeal;

3) The learned JCIT ought to have considered the reasons for delay in filing the appeal and ought to have condoned the delay in filing the appeal:

4) The learned JCIT ought to have decided the appeal on merits without disposing the appeal in limini;

5) The order of the learned JCIT is erroneous in not considering the grounds of appeal and in not holding that the appellant is eligible for exemption u/s 80P of the I.T.Act.

6) Any other ground/grounds that may be urged at the time of hearing.”

3. At the outset, it is noted that there is a delay of 36 days in filing the present appeal before the Tribunal. The assessee has moved a petition seeking condonation of delay, supported by an affidavit explaining the reasons for the delay. The learned Authorised Representative (AR) submitted that the delay in filing the appeal was unintentional and occurred due to unforeseen circumstances beyond the control of the assessee. Specifically, it was explained that the Secretary of the Society, who was responsible for handling all income-tax-related matters of the assessee, sustained an injury while participating in the Annual Sports Meet of the All India Provident Fund Employees. Owing to

this, he had to undergo medical treatment and physiotherapy, and was unable to attend to official duties during the relevant period. The assessee has also placed on record medical certificates and physiotherapy records in support of substantiating the claim.

3.1 We have heard the Ld. DR and also carefully considered the petition for condonation of delay, the accompanying affidavit, and the medical documents placed on record. After perusal, we find that the explanation given for the delay is bona fide and supported by reasonable cause. Accordingly, the delay is condoned, and the appeal is admitted for adjudication on merits.

4. The brief facts of the case are that the assessee, a Co-operative Society, had preferred appeal before Ld. First Appellate Authority against the order of learned Assessing Officer ("Ld. AO") passed u/s 143(3) of the income tax Act, 1961 ("the Act") dated 27.12.2019. Before the Ld. First Appellate Authority, the assessee's appeal was found to be delayed by 36 days. The Ld. First Appellate Authority rejected the condonation request of the

assessee. As a result, the appeal was dismissed without adjudication on merits.

5. Aggrieved with the order of Ld. First Appellate Authority, the assessee is in appeal before us.

6. Before us, the Ld. AR submitted that the delay in filing the appeal before the Ld. First Appellate Authority was due to genuine reasons beyond the control of the assessee. It was explained that the assessment order was not physically served but uploaded on the Income Tax Portal. Initially, when the Chartered Accountant checked the portal, the order was not visible. Assuming that the order would be sent by post, no immediate action was taken. However, upon a subsequent review of the portal on 05.02.2020, the order was found, and the Chartered Accountant informed the appellant. During this period, the Secretary handling Income Tax matters was transferred to Siddipet, and there was a time gap before a new Secretary was appointed. The appeal was prepared and filed on 02.03.2020, leading to a delay of 36 days. The assessee submitted an affidavit explaining these circumstances and

pleaded that the delay was neither intentional nor for any undue advantage. It was further argued that the Ld. First Appellate Authority ought to have considered these reasonable grounds and condoned the delay in the interest of justice.

7. Per contra, the Ld. DR opposed the condonation of delay. He submitted that the assessee had sufficient time to verify the IT portal and file the appeal within the prescribed time. The claim that the order was not immediately visible on the portal is not a valid ground for condonation, as it is the assessee's responsibility to track important assessment orders. The Ld. DR further argued that the reasons cited for the delay, such as the transfer of the Secretary, were not sufficient cause and that the Ld. First Appellate Authority was correct in rejecting the condonation request.

8. We have considered the rival contentions and perused the material available on record in view of the submissions made by either side. In the present case, the assessee has explained the delay by stating that the assessment order was initially not visible on the Income Tax Portal and that there was a temporary

administrative gap due to the transfer of the Secretary handling tax matters. In our considered opinion, the delay was not deliberate and was caused due to genuine practical difficulties. Considering the interest of justice, we hold that the delay of 36 days before the Ld. First Appellate Authority should be condoned. Since the Ld. First Appellate Authority dismissed the appeal purely on technical grounds without adjudicating on merits, we deem it appropriate to remand the matter back to the file of the Ld. First Appellate Authority for fresh adjudication on merits. The Ld. First Appellate Authority shall hear the assessee and decide the appeal on merits, in accordance with the law, after providing due opportunity of being heard.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

7th अप्रैल, 2025 को खुली अदालत में सुनाया गया आदेश।

Order pronounced in the Open Court on 7th April, 2025.

Sd/- (VIJAY PAL RAO) VICE PRESIDENT	Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 07.04.2025.

****#TYNM/sps**

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Employees Provident Fund Organisation Staff Co-op Society Ltd., 330, Bhavishyanidhi Bhavan, Main Road, Barkatpura, Hyderabad – 500027, Telangana.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward –4(1), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad