



**आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**PUNE BENCHES "B" :: PUNE**

**BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER**  
**AND**  
**SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA Nos.652 to 655/PUN/2025**

**निर्धारण वर्ष / Assessment Years: 2014-15 to 2017-18**

UnusAbdulgafar Shaikh, TalwadiUruli Kanchan, Pune- Solapur Road, Haveli, Pune – 412202. Maharashtra.	V s.	The Income Tax Officer, Ward-14(3), Pune.
PAN: ACEPS8721Q		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Suhas Bora – AR
Revenue by	Shri Vinod Pawar – Addl.CIT(DR)
Date of hearing	08/05/2025
Date of pronouncement	14/05/2025

**आदेश/ ORDER**

**PER DR. DIPAK P. RIPOTE, AM:**

These four appeals filed by the Assessee are against the separate orders of Id.Commissioner of Income Tax(Appeal)[NFAC] passed under section 250 of the Act, 1961, respectively. For the sake of convenience, these four appeals were heard together and are being disposed of by this common order.We treat appeal in ITA No.652/PUN/2025 as “lead case”. The Assessee has raised the following grounds of appeal :



*“Erroneous dismissal of the appeal on the basis of delay*

- 1. The Ld. CIT(A) erred in dismissing the appeal solely on the ground of delay without adjudicating the issue on merits. The order should be set aside for proper adjudication.*
- 2. The Ld. CIT(A) failed to consider his obligation to address all the issues arising from the impugned order, as per Explanation to Sec. 251(2) of the Act.*
- 3. The appellant had provided a reasonable cause for the delay, which was not duly appreciated*

*Erroneous application of Section 69A of the Act*

- 4. The addition of Rs. 52,38,245/- u/s 69A of the Act was incorrect, as the appellant was not liable to maintain the books of accounts as per section 44AA of the Act and section 69A applies only when amounts are not recorded in books.*

*Erroneous assumption of jurisdiction u/s 147 of the Act*

- 5. The reassessment order u/s 147 r.w.s 144 r.w.s 144B is invalid. as reassessment based on a search action in a third-party case falls under Sec. 153C, not Sec. 147.*

*Grounds on merits*

- 6. The AO made the addition solely based on information from the insight portal and bank statements, without corroborative evidence.*
- 7. Without prejudice if at all addition is warranted, it should be based on peak credit theory rather than the entire deposit amount of Rs.52,38,245/-.*
- 8. The appellant seeks the right to amend, modify, or add grounds as necessary.”*

**Submission of Id.AR :**

2. Ld.AR for the Assessee filed Affidavit of the assessee explaining the reason for Delay. Ld.AR vehemently pleaded that there was sufficient reason for Delay and Id.CIT(A) should have



condoned the Delay. Ld.AR further pleaded that case may be set aside to ld.CIT(A).

**Submission of ld.DR :**

3. Ld.DR for the Revenue relied on the order of the Assessing Officer(AO) and ld.CIT(A).

**ITA No.652/PUN/2025**

**Findings & Analysis :**

4. We have heard both the parties and perused the records. In this case, notice u/s.148 of the Act, was issued for A.Y.2014-15 on 25.07.2022 on account of information received regarding Cash Deposits in Renuka Mata Multi Urban Cooperative Credit Society Limited. The AO noted in the assessment order that Assessee failed to comply various notices and hence, Assessment Order was passed u/s.144 of the Act. Aggrieved by the same, assessee filed appeal before the ld.CIT(A) with Delay of 62 days. Ld.CIT(A) dismissed the appeal on account of Delay without discussing any merits of the case. We have perused the Affidavit filed by the Assessee and noted that there was sufficient cause for Delay.



4.1 The Hon'ble Bombay High Court in the case of Vijay Vishin Meghani Vs. DCIT [2017] 398 ITR 250 (Bombay) while condoning the delay of 2984 days observed as under :

Quote, “ 14. The assessee did not rest here. He supported this application with an affidavit of one Chandrashekhar, son of S.A. Yogeshwar, a practicing Chartered Accountant and Managing Partner of M/s. Rajesh Rajeev & Associates. The affidavit of the said Chandrashekhar confirmed that the assessee indeed was a client of this Chartered Accountancy firm from 1997 to 2006. From paragraphs 3 to 6 of the affidavit dated 22-8-2013, filed by this Chartered Accountant, it is confirmed that the advice as aforesaid was given and professionally to the assessee. The assessee acting on the same did not file the appeal but the rectification application. It is that endorsement from the assessee's then Chartered Accountants which, according to the assessee, enabled him to seek condonation of delay.

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19. Way back in the year 1979, in a decision reported in Concord of India Insurance Co. Ltd. v. Smt. Nirmala Devi AIR 1979 SC 1666 , the Hon'ble Supreme Court has held that a legal advice tendered by a professional and the litigant acting upon it one way or the other could be a sufficient cause to seek condonation of delay and coupled with the other circumstances and factors for applying liberal principles and then said delay can be condoned. Eventually, an overall view in the larger interest of justice has to be taken. None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority finds that the litigant has deliberately and intentionally delayed filing of the appeal, that he is careless, negligent and his conduct is lacking in bona fides. These are, therefore, some of



*the relevant factors. Those factors should therefore necessarily go into an adjudication of the present nature.*

.....

*21. We find from paragraph 13 of the order, but for this relevant factors and tests, everything else has been brought into the adjudication by the Tribunal. The Tribunal though aware of these principles but possibly carried away by the fact that the delay of 2984 days is incapable of condonation. That is not how a matter of this nature should be approached. In the process the Tribunal went about blaming the assessee and the professionals and equally the Department. To our mind, therefore, the Tribunal's order does not meet the requirement set out in law. The Tribunal has completely misdirected itself and has taken into account factors, tests and considerations which have no bearing or nexus with the issue at hand. The Tribunal, therefore, has erred in law and on facts in refusing to condone the delay. The explanation placed on affidavit was not contested nor we find that from such explanation can we arrive at the conclusion that the assessee was at fault, he intentionally and deliberately delayed the matter and has no bona fide or reasonable explanation for the delay in filing the proceedings. The position is quite otherwise.*

*22. In the light of the above discussion, we allow both the appeals. We condone the delay of 2984 days in filing the appeals but on the condition of payment of costs, quantified totally at Rs.50,000/-. Meaning thereby, Rs.25,000/- plus Rs.25,000/- in both appeals. The costs to be paid in one set to the respondents within a period of eight weeks from today. On proof of payment of costs, the Tribunal shall restore the appeals of the assessee to its file for adjudication and disposal on merits. We clarify that all contentions as far as merits of the*



*claim are kept open. We have not expressed any opinion on the same.”*  
Unquote.

4.2 Respectfully following the proposition of law laid down by the Hon’ble Bombay High Court, we direct ld.CIT(A) to condone the Delay of 62 days. Accordingly, the order of ld.CIT(A) is set-aside to ld.CIT(A) for denovo adjudication.Ld.CIT(A) shall afford opportunity of hearing to the Assessee. The Assessee shall file all necessary documents before the ld.CIT(A). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

4.3 There has been a Delay of filing appeal before this Tribunal also. However, as discussed above, we are convinced that there was a reasonable and sufficient cause for delay. Therefore, respectfully following Hon’ble Jurisdictional High Court, we condone the delay.

In the result, appeal of the assessee in ITA No.652/PUN/2025 is allowed for statistical purpose.

**ITA Nos.653, 654 and 655/PUN/2025 :**

5. Similarly, in these three appeals also, there was a delay in filing appeal before the ld.CIT(A) as under :

A.Y.	Delay in filing appeal before CIT(A)
2015-16	71 days
2016-17	59 days
2017-18	71 days



6. Since we have already discussed and decided the same issue in the “Lead Case – ITA No.652/PUN/2025” , the decision of the ITA No.652/PUN/2025 shall apply *mutatis-mutandis* to these three appeals also i.e.ITA No.653, 654 & 655/PUN/2025. Therefore, grounds of appeal raised by the assessee in all these three appeals are allowed for statistical purpose.

7. In the result, three appeals of the assessee are allowed for statistical purpose.

8. To sum up, all four appeals i.e.ITA Nos.652, 653, 654 & 655/PUN/2025 of the assessee are allowed for statistical purpose.

Order pronounced in the open Court on 14 May, 2025.

**Sd/-**  
**(VINAY BHAMORE)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DIPAK P.RIPOTE)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 14 May, 2025/ SGR

**आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, “बी” बेंच, पुणे / DR, ITAT, “B” Bench, Pune.
6. गार्डफ़ाइल / Guard File.



आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary  
आयकर अपीलिय अधिकरण, पुणे/ITAT, Pune.