

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

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

ITA No.798/Coch/2024 : Asst.Year 2018-2019

The Kasargod District Co-operative, Nayakas Road Kasaragod – 671 121. PAN : AAAAT3167G.	v.	The Dy.Commissioner of Income-tax, Circle – 1 Trivandrum.
(Appellant)		(Respondent)

Appellant by : Sri.George Thomas, CA
Respondent by : Smt.Leena Lal, Senior AR

Date of Hearing : 27.05.2025.	Date of Pronouncement : 30.05.2025
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ORDER

Per Prakash Chand Yadav, JM :

The present appeal of the assessee is arising from the order of the National Faceless Appeal Centre / learned Commissioner of Income-tax (Appeals [“CIT(A)” for short] dated 06.10.2023, having DIN & Order No.ITBA/NFAC/S/250/2023-24/1056855205(1) and relates to the assessment year 2018-2019.

2. At the outset, it is observed that there is a delay of 275 days in filing of this appeal. The assessee is a State Co-operative Bank and hence it must be having battery of lawyers, and therefore, it is expected from such assessee to be vigilant in pursuing the tax matters diligently. However, the assessee could not pursue the matter for a long delay of 275 days.

Without prejudice to these observations, we observe that the reason given by the assessee in the affidavit signed by Chief Manager of the Kerala State Co-operative Bank is that the order of the CIT(A) was posted on the website of the Income Tax on 6th October, 2023, however, the assessee could not be able to pursue the matter because the assessee bank merged with Kerala Bank and in the process of migrating accounts, assessee could not be able to pursue the matter before the ITAT. The reasons given by the assessee would itself prove that the assessee has received the order of CIT(A) on 6th October, 2023, therefore, it is not a case where the order of the CIT(A) has not been served upon the assessee. In our view, merely because merger proceedings were going on between the assessee and the Kerala Bank, that cannot be a ground for not following the Income Tax matters with due diligence. It is settled position of law that power to condone delay should be exercised having regard to the facts of the case, the power cannot be exercised to frustrate the substantial law of limitation as held by the Apex Court recently in the case of H. Guruswamy Vs A.Krishna Civil appeal number 317 of 2025. The Hon'ble Apex Court in yet another case of Mool Chandra v. Union of India, 2024 SCC OnLine SC 1878, decided on 5-8-2024] has held that it is not the length of the delay rather the cause behind the delay, which is to be seen while condoning the delay. In the case of Commissioner, Nagar Parishad, Bhilwara v. Labour Court, Bhilwara, (2009) 3 SCC 525, it was opined that while deciding an application for condonation of delay the High Court ought not to have gone into the merits of the case.

“If negligence can be attributed to the appellant, then necessarily the delay which has not been condoned by the Tribunal and affirmed by the High Court deserves to be accepted. However, if no fault can be laid at the doors of the appellant and cause shown is sufficient then we are of the considered view that both the Tribunal and the High Court were in error in not adopting a liberal approach or justice-oriented approach to condone the delay”. In the present case the cause responsible for the delay would not fall under the ambit of “reasonable cause”. Therefore, we are not convinced with the reasons given by the assessee for condonation of appeal, and hence, the present appeal is dismissed as barred by limitation.

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

Order pronounced on this 30th day of May, 2025.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(Prakash Chand Yadav)
JUDICIAL MEMBER

Cochin; Dated : 30th May, 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