

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'DB-B' Bench, Hyderabad**

**Before Shri Vijay Pal Rao, Vice-President**  
**A N D**  
**Shri Manjunatha, G. Accountant Member**

आ.अपी.सं / **ITA No.102/Hyd/2025**  
(निर्धारण वर्ष / Assessment Year: 2013-14)

Shri Gunti Suresh Kumar Hyderabad PAN:BYKPS6071G (Appellant)	Vs.	Income Tax Officer Ward 12(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri Sai Kumar, CA
राजस्व द्वारा / Revenue by:		Dr. Sachin Kumar, DR
सुनवाई की तारीख / Date of hearing:		04/06/2025
घोषणा की तारीख / Pronouncement:		06/06/2025

**आदेश/ORDER**

**Per Vijay Pal Rao, Vice President**

This appeal filed by the assessee is directed against the order dated 29/10/2024 of the learned CIT (A)/Addl./JCIT(A)-3 Mumbai, for the A.Y.2013-14.

2. There is a delay of 25 days in filing the present appeal. The assessee has filed an application for condonation of delay which is supported by an affidavit by the assessee.

3. We have heard the learned AR as well as the learned DR for condonation of delay and perused the contents in the affidavit filed by the assessee. The assessee has explained the cause of delay of 25 days in filing the present appeal in para 2 to 4 of the affidavit as under:

2. The impugned appellate order dated 29.10.2024 passed by the ADIL/JC(A)-3 MUMBAI, was served on me. However, our authorized representative, who is entrusted with the responsibility of filing the appeal, was extensively engaged during the relevant period in finalizing and submitting the GST annual returns for multiple clients for FY 2023-24. The period was marked by stringent deadlines, regulatory obligations, and a significantly increased workload leading up to 31st December 2024. As a result, the process of filing the ITAT appeal was initiated on 2nd January 2025.

After accounting for public holidays and the Pongal festival, only 18 effective working days remained for collecting the necessary documents, compiling relevant information, and completing the filing of the appeal before the Hon'ble ITAT. Accordingly, I am filing this affidavit seeking condonation of delay in filing the appeal. The appeal as per the time prescribed in the statute should have been filed on or before 28.12.2024 but the same has been filed on 25.01.2025 with a delay of 27 days.

3. I respectfully submit that the impugned order was passed by the Commissioner of Income Tax (Appeals), against which I have preferred an appeal before the Hon'ble Income Tax Appellate Tribunal. In the course of the process detailed in point (2) above, there has been an inadvertent delay of 27 days in filing the appeal.

4. It is submitted that the delay in filing the appeal, is not willful but on account of above reasons. It is submitted that if the delay is not condoned, I will be put to irreparable loss.

3. Accordingly, by considering the reasons as explained by the assessee for delay of 25 days in filing the present appeal and taking a lenient view, we condone the said delay in filing the appeal.

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

**1. Condonation of Delay in Filing Appeal:**

- The Learned Commissioner of Income Tax (Appeals) [CIT(A)] erred in not condoning the delay of 2014 days in filing the appeal
- The delay was due to genuine hardship as the appellant was unaware of the demand until 15.02.2022. Upon receipt of the demand, the appellant immediately raised grievances and approached the department.
- It is prayed that the delay be condoned as per judicial precedents allowing reasonable cause for delay.

**2. Incorrect Processing of Return under Section 143(1):**

- The CIT(A) failed to appreciate that the appellant mistakenly filed incorrect particulars of income due to confusion between financial year and assessment year.
- The incorrect figure was a clerical mistake, and a revised return was filed on 03.05.2017.

**3. Incorrect Demand Raised:**

- The demand of ₹24,51,030/- raised is incorrect and disproportionate to the appellant's actual income.
- The reliance on technical grounds instead of merits of the case resulted in miscarriage of justice.
- The CIT(A) erred in not considering that the mistake was rectifiable under Section 154 but was beyond the statutory limitation period.

**4. Assessee Craves the rectification of the Income Tax Return and to drop the demand order incorrectly raised.**

5. We have heard the learned AR as well as the learned DR and carefully perused the impugned order passed by the learned CIT (A). There was a delay of 2014 days in filing the appeal before the learned CIT (A) and consequently, the appeal of the assessee was dismissed by the learned CIT (A) as not maintainable being barred by limitation. The learned AR of the assessee has reiterated its contention as raised before the learned

CIT (A) which are reproduced in para 6 of the impugned order as under:

#### 6. SUBMISSION

The appellant filed his response. The relevant extract of the appellant's submissions is reproduced here in as under: -

*I would like to inform you that I have filed my original income tax returns for the AY 2013-14 vide acknowledgement number 282384950290714 dated 29/07/2014. I am a consecutive tax payer filing my income tax returns and paying appropriate taxes since AY 2012-13. I would like to inform you that I was working at TATA Consultancy Services Limited for the FY 2012-13. During the year I was having income from salary as the only source.*

*I have received notice dated 15/02/2022 having DIN and Letter No. ITBA/RCV/F/17/2021-22/1039780268(1) for AY 2013-14 in which it has been stated that a sum of Rs.24,51,030/- is due on me as Income tax.*

*In this context, I would like to put forward a few facts to bring more clarity in this matter:*

*I have filed my original returns vide acknowledgement number 282384950290714 dated 29/07/2014 u/s 139(1) of income tax act, 1961.*

*I have tried filing income tax returns by myself and while filing IT returns for FY 2012-13, I have considered form 16 of FY 2013-14 ignorantly. I was unclear between assessment year and financial year provision. I have considered form 16 of FY 2013-14 as AY 2013-14 and filed the returns, this was the first mistake that took place.*

*Secondly, while mentioning salary amount under the head income from salary which was Rs.5,77,026/- (**true and correct figure**) was mentioned has Rs.57,70,260/- (false and incorrect figure), an extra zero was placed after the salary income disclosed in the income tax returns. The above-mentioned salary figure belongs to FY 2013-14.*

*The returns were processed u/s 143(1) vide reference CPC/1314/A1/1618594888, dated 21/10/2016 considering the salary income of FY 2013-14 (AY 2014-15) and incorrect figure mentioned in the above paragraph and the demand was raised along with the interest due amounting to Rs. 24,51,030/-.*

*Thereafter, the assessee has filed the revised income tax returns rectifying all the mistakes done in the original income tax returns filed i.e. considering correct form 16 of FY 2012-13 (AY 2013-14) and true & correct salary figures.*

*I am hereby giving you the abstract of original returns filed and details of income as per correct form 16 issued by the company.*

6. The assessee has not explained any reason much less the sufficient reasons for such inordinate delay of around six years in filing the appeal before the learned CIT (A). The learned CIT (A) has dismissed the appeal of the assessee in para 7.1 to 7.5 as under:

#### 7.1 Admission of appeal.

There is a delay in filing of appeal hence the admission of the appeal has to be decided first.

In this case the appellant filed the original return of income on 29/07/2014 and the extended due date of filing of return was 05/08/2013. As per section 139(5) if any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the end of the relevant assessment year or before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. During the course of appellate proceedings, it is seen that while the impugned order sought to be challenged in this appeal was passed on 21/10/2016 and the appeal has been filed only on 26.05.2022 i.e. after 5 years 7 months 5 days from the date of passing of order u/s 143(1) of the Act. Therefore, there has been a delay of **2014** days in filing the appeal. The appellant in Form No. 35 is claiming condonation of delay stating that he was unaware that any such demand is yet to be paid for AY 2013-14 until he actually received notice for payment of the demand on 15-02-2022. He has further submitted that an application u/s 154 cannot be filed since 4 years have lapsed, hence this appeal.

7.1 I have carefully gone through the reasons advanced by the appellant for filing the appeal belatedly. There is a delay of **2014** days in filing the appeal. As per section 249(2) of the I.T. Act, the assessee shall present its appeal within 30 days of service of notice of demand relating to the assessment. The section 249(3) of the IT Act, empowers the first appellate authority to admit the appeal after the expiry of limitation of time for filing the appeal if appellant had good and sufficient reasons for the not presenting the appeal within the time period prescribed u/s 249(2) of the Act.

According to the appellant the delay was since the appellant was not conversant with

the system and also since 4 years have lapsed and the legal recourse for applying for rectification is closed. The appellant claims that he has filed revised return of income and also filed grievances in the portal seeking the correction of mistake through the assessing officer. It is seen that the revised return has also been filed on 03.05.2017 whereas the time limit for filing revised return for the AY 2013-14 was beyond the time limit under the section 139(5) of the I.T. Act. This also shows that the appellant was aware of the demand raised in the return processed u/s 143(1). Thus, the appellant could not show any cogent reason for belatedly filing the appeal.

7.2 Though the Section 5 of the Limitation Act, 1963 prescribes that any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period. However, it is well established in law that the period of limitation has to be construed somewhat strictly as it has the effect of vesting for one and taking away right from the other. To condone the delays in a mechanical or a routine manner may amount to jeopardizing the legislative intent behind Section 5 of the Limitation Act.

7.3 Statutes of limitation interpose a statutory bar after a certain period giving quietus to the rights arising from a judgment which is sought to be impugned. In other words, it is enshrined in the maxim "interest reipublicae sit finis litium" (it is for the general welfare that a period be put to litigation). Where the parties chose to sleepover their rights for prolonged periods without any just cause, can hardly claim equity in justice particularly faced with the statutory provisions of Section 5 of the Act. In construing enactments which provide period of limitation for institution of proceedings, the purpose is to intimate people that after lapse of certain time from a certain event, a proceeding will not be entertained where a strict grammatical construction is normally the safe guide.

7.4 It may be mentioned that the Honourable High Court of Punjab and Haryana High Court in the case of Amar Shakti Co-operative Labour & Construction Society Ltd. vs Commissioner of Income Tax, Bhatinda, [2009] 2 taxmann.com 62 wherein the Hon'ble Court has held as under:

"Section 260A of the Income Tax Act, 1961 read with section 5 of the Limitation Act, 1963- High Court-Appeal to Whether merely because rectification application under section 254(2) against order of tribunal was filed and remained pending before Tribunal, same cannot be termed to be a good ground for condonation of delay in filing appeal before High Court against original order of Tribunal-Held, yes."

From the above ratio laid down by the Hon'ble High Court of Punjab and Haryana, it is clear

that the delay in filing of appeal on account of pursuing an alternate remedy is not sufficient cause within meaning of section 249(3) of the Act. In view thereof, the undersigned is of the considered opinion that the delay in filing of the appeal is attributable to the gross negligence on part of the appellant and there was no reasonable cause which prevented the appellant from filing of the appeal before the limitation date and hence the reasons which have been put forward to explain the delay, are not sufficient.

7.5. There is an inordinate delay in filing of appeal. The appellant, in the present situation, appears to be guilty of laches or negligence and does not take appropriate steps to peruse the remedy till about **2014** days and thus does not take appropriate action in filing the appeal within the prescribed time. In the light of the above discussion and considering the facts and position of the law on this issue, I find that there is no sufficient cause for condoning the delay in the institution of appeal by the appellant and thus the application of the appellant for condonation of delay is hereby rejected.

7. In the absence of any reasonable cause to justify such an inordinate delay of 2014 days in filing the appeal before the learned CIT (A), the prayer of the assessee is not acceptable because of unsatisfactory and unjustified reasons for such delay. Accordingly, we do not find any error or illegality in the impugned order of the learned CIT (A) in dismissing the appeal of the assessee being barred by limitation.

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

Order pronounced in the Open Court on 6<sup>th</sup> June, 2025.

Sd/-

Sd/-

<b>(MANJUNATHA, G.) ACCOUNTANT MEMBER</b>	<b>(VIJAY PAL RAO) VICE-PRESIDENT</b>
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Hyderabad, dated 6<sup>th</sup> June, 2025

*Vinodan/sps*

Copy to:

S.No	Addresses
1	Shri Gunti Suresh Kumar, LIG-874, Ramachandrapuram, BHEL 502032, Telangana
2	Income Tax Officer Ward 12(1) Aayakar Bhavan, Opp: LB Stadium, Basheerbagh, Hyderabad 500004 Telangana
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*