

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

**BEFORE : SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER  
AND  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No. 169 & 170/Agr/2025  
Assessment Years: 2015-16 & 2016-17

Aarush Jain Family Trust, 510, Subhash Ganj, Ashoknagar (MP)	<b>Vs.</b>	Income-tax Officer, Exemption Ward, Gwalior.
<b>PAN : AAFTA1478R</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Subhash Jain, C.A.
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	22.05.2025
Date of pronouncement	16.06.2025

**ORDER**

**Per:Sunil Kumar Singh, Judicial Member:**

These two appeals have been preferred by the assessee against two separate impugned orders both dated 05.03.2025 passed in Appeals No. ADDL/JCIT (A)-2, VISAKHAPATNAM/10001/2014-15 and ADDL/JCIT (A)-2, VISAKHAPATNAM/10002/2015-16 by the Ld. ADDL/JCIT(A)-2, Visakhapatnam u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment years 2015-16 and 2016-17 respectively, wherein the Id. CIT(Appeals) has dismissed both the first appeals of assessee as barred by limitation upon rejection of assessee's prayer for condonation of delay.

2. These appeals have been preferred on the ground, amongst others, that the Id. CIT(Appeals) has erred in dismissing the appeals upon rejecting the prayer for condonation of delay and without affording proper opportunity to the appellant/assessee.

3. Perused the records and heard learned representative for the assessee and learned departmental representative for the Revenue.

4. At the very outset, learned AR has submitted that the appellant/assessee filed first appeals on 04.11.2023 against the impugned intimations u/s. 143(1) each dated 19.10.2017 by a delay of 2176 days for both the assessment years and reasonable explanation for condonation of the delay was given in the delay condonation applications, which were supported by affidavits. Learned Id. CIT(Appeals) has, however, failed to consider the same in right perspective and wrongly dismissed the appeal as barred by limitation. Prayed to condone the delay caused in filing first appeals and to restore the matter back to the Id. CIT(Appeals) for deciding the appeals on merits after affording sufficient opportunity of hearing to the appellant/assessee.

5. Learned DR has submitted that since the assessee failed to explain the reasonable cause, which prevented him to file the appeals within the period of limitation, the Id. CIT(Appeals) has rightly dismissed both the appeals on the ground of delay after giving sufficient opportunity to the assessee.

6. Perusal of the impugned orders shows that the appellant/assessee had explained following common reasons for the delay caused in filing first appeal for both the years:

“1. That I am the trustee of Aarush Jain Family trust since inception of this trust and look after maintenance and other care of beneficiary Aarush Jain. This trust was created from the last will of Late Smt. Kusum Bai for the benefit of baby Aarush Jain.

2. That said trust is not doing any business since inception except made deposits with known party on interest. Thus only income from interest since inception to as on date.

3. That trust is having only one beneficiary who is not having any taxable income during the year 2014-15 as well as in subsequent year.

4. That I just received notice for recovery of tax from department hence I surprised after looking to the said demand notice because demand is raised of Rs. 1,16,220/- after charging tax at Maximum Marginal rate instead of normal rate of tax even no business income of the trust as well as beneficiary was having below taxable income.

5. That on receiving of recovery notice, I just contacted to our tax consultant who login on the Portal and found that tax has been charged at MMR instead of normal rate of tax and advised for fling of appeal against arbitrary demand.

6. That I requested to the consultant that to prepare the appeal against intimation, thus on preparing the appeal now I am fling appeal against the intimation u/s 143(1) of the Income Tax act..

7. That, I am also fling my Appeal due to consequence informed by income tax department officials as full recovery of all taxes as well as launch prosecution against both trustee.

8. That the delay is caused due to issue narrated above facts, which is beyond to my control. Hence delay in fling the appeal against intimation u/s 143(1) dated 19.10.2017 of the Income Tax Act is 2176 days but from the date of download to the said intimation is no delay which not came to my knowledge earlier but known on just recovery of arbitrary demand.

9. That the delay in filling to this appeal is due to non-knowledge of passing of any demand raised against trust, thus by virtue of said unavoidable reasons there is delay in fling the appeal.

10. That I am also confirming all above facts on affidavit which is enclosed herewith for your kind consideration.

11. That the delay in filing of appeal is unintentional and bonafide and there was no benefit to the appellant assessee trust in delay in filing of appeal. Thus the assessee trust was prevented from sufficient cause."

7. It is pertinent to mention that both the first appeals were instituted on 04.11.2023 against the impugned orders dated 19.10.2017. The limitation period for filing an appeal before learned CIT(A) u/s. 249(2) of the Act is 30 days. However section 249(3) of the Act empowers the first appellate authority to condone the delay if satisfied that appellant had sufficient cause for not presenting it within that period. In the instant case, learned CIT(A) was not satisfied to condone the said delay in filing the first appeals on 04.11.2023 against the intimations u/s. 143(1) dated 19.10.2017.

8. It is true that there is huge delay of 2176 days in filing each of the first appeals before Id. CIT(Appeals). We, however, take judicial notice of the fact that most of the duration of delay caused in filing first appeals before Ld. CIT (A) overlaps the period of spread of global pandemic COVID-19. This fact has also been taken care of by Hon'ble Supreme Court in Misc. app. No. 21/2022 in Misc. app No. 665/2021 in suo-moto W.P(c) No. 3/2020 in civil original jurisdiction and in re cognizance of extension of limitation with miscellaneous application No. 29/2022, in miscellaneous application No. 655/2021 in suo-moto petition(c) no. 03/2020 and vide para 5(1) of its order dated 10.01.2022

directed that its order dated 23.03.2020 is restored and in continuation of the subsequent order dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings after exclusion of the aforesaid duration. Therefore, substantial part of the delay in filing the first appeals before Id. CIT(Appeals) gets condoned in view of the Hon'ble Apex Court directions.

9. Hon'ble Supreme Court in Sambhaji and Ors V Gangabai and Ors, Civil Appeal no. 6731/2008 (arising out of SLP(C) No. 14562 of 2006) vide judgment dated 20.11.2008, has held that the object of prescribing procedure is to advance the cause of justice. In an adversial justice system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extra ordinary situations in the ends of justice. Justice is the goal of jurisprudence. Procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. Processual law is not to be tyrant but a servant, not an obstruction but an aid to justice. A procedural

prescription is the handmaid and not the mistress, lubricant, not a resistance in the administration of justice.

10. In the instant case the deponent's affidavit in respect of the receipt of intimations on 26.10.2023 as mentioned in Forms-35, being unrebutted, deserves to be treated as bonafide-cum-sufficient cause. We accordingly deem it just and proper, with a view to advance the cause of justice, condone the said delay of 2176 days caused in filing each of the first appeals before the Id. CIT(Appeals). The said delay is accordingly condoned.

11. In the result, both the appeals are allowed. The impugned orders each dated 05.03.2025 are set aside. The delay in filing the first appeals before first appellant authority i.e learned CIT(A) stands condoned as stated above. We restore the matter back to the file of learned CIT(A) for passing orders afresh on merit in accordance with law. Needless to say that the first appellate authority shall ensure the substantial compliance of the principles of natural justice.

***Order pronounced in the open court on 16.06.2025.***

**Sd/-  
(MANISH AGARWAL)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUNIL KUMAR SINGH)  
JUDICIAL MEMBER**

Dated: 16.06.2025

\*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR