

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.1180/Bang/2024
Assessment Year: 2011-12

ITO Ward 5(2)(1) Bengaluru	Vs.	Jayantilal Bhagwanchand 162/1 5 th Main Road Chamrajpet Bengaluru Karnataka 560 018 PAN NO : AAAHJ3721R
APPELLANT		RESPONDENT

CO No.29/Bang/2024 (Arising out of ITA No.1180/Bang/2024)
Assessment Year: 2011-12

Jayantilal Bhagwanchand 162/1 5 th Main Road Chamrajpet Bengaluru Karnataka 560 018 PAN NO : AAAHJ3721R	Vs.	ITO Ward 5(2)(1) Bengaluru
APPELLANT		RESPONDENT

Assessee by	:	Sri S.V. Ravishankar, A.R.
Revenue by	:	Sri Balusamy N., D.R.

Date of Hearing	:	17.06.2025
Date of Pronouncement	:	18.06.2025

O R D E R

PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:

The present appeal of the revenue is arising from the order of
ld. CIT(A) dated 10.1.2024 vide DIN & Order
No.ITBA/NFAC/S/250/2023-24/1059566904(1) and relates to AY

2011-12. Against this appeal, the assessee has also raised cross objection.

2. At the outset, we observe that there is a delay of 100 days in filing of present appeal by the revenue before the ITAT.

3. Ld. D.R. appearing on behalf of revenue drawn the attention of bench towards the application for condonation of delay and argued that there was “sufficient cause” behind the delay of 100 days.

4. Ld. Counsel for the assessee vehemently opposed the prayer of condonation of delay and argued that the reasons mentioned in the condonation petition would not constitute “sufficient cause” and hence the appeal is to be dismissed on the ground of limitation itself.

5. We have heard the rival submissions and perused the materials available on record. For the sake of convenience, we reproduce the reasoning given by the AO vis-à-vis delay in filing the appeal:

4. *“Due to time barring assessment work, penalty work, submission of scrutiny reports, scrutiny assessment work, grievance redressal, demand verification works pertaining to four wards which got merged with this ward, the appeal could not be filed in time,*
5. *That there exists a delay of 100 days in filing of this appeal before Hon’ble ITAT as the CIT(A) order dated 10.01.2024 was considered as received in the of Pr.CIT-3, Bengaluru on 10.01.2024 as the order has been passed in ITBA system.*
6. *That the above delay is unintentional and the reasons for the same are beyond the control of the undersigned officer in view of the huge workload assigned to this office.”*

5.1 Perusal of the above reasoning given by the AO would show that the AO has taken an excuse that he was busy in time barring

assessment, penalty work, etc. etc. The department has also relied upon the judgement of Hon'ble Karnataka High Court in the cases of Muninagareddy Vs. ACIT, details mentioned in the condonation application.

5.2 We observe that recently Hon'ble Supreme Court in the case of H. Guruswamy Vs. A. Krishna in Civil appeal No.317 of 2025 dated 8.1.2025 has observed that "Rule of limitation are not meant to destroy the rights of parties, they are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly". It has been observed by the Hon'ble Supreme Court that time and again the apex court has reminded the district judiciary as well as the High Courts that concept such as "liberal approach, justice- oriented approach, substantial justice" should not be employed to frustrate or jettison the substantial law of limitation.

5.3 Keeping in view of these guidelines of the Hon'ble Supreme Court, we would now examine whether the reasons given by the Id. AO would constitute sufficient cause for condoning the delay. In our humble opinion, the reasons given by the AO would not constitute the "sufficient cause", the averments made by the AO are general in nature. This reminds us to the judgement of Hon'ble Apex Court reported in **348 ITR 7(SC)** in the case of Office of the Chief Post Master Vs. Living Media India Ltd., wherein the Hon'ble Apex Court in para 12 & 13 has observed as under:

"12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is

a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly bind everybody including the Government.

13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. *The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”*

5.4 Perusal of the above observations of the Hon’ble Apex Court would show that the Hon’ble Apex Court has categorically held that it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for delay and they have bonafide effort, there is no need to accept the usual explanation that the file was kept pending several months/years due to considerable degree of procedural red tape in process. Hon’ble Apex court further observed that the government departments are under special obligation to ensure that they performed their duties with diligence and commitment.

5.5 Recently, the apex court in the case of Mool Chandra Vs. UOI reported in (2024) assessee-online (SC) 1878 dated 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 view of these observations of the apex court, we are constrained to dismiss the present appeal of the revenue as barred by limitation.

5.6 Since we have already dismissed the appeal of the revenue, the CO filed by the assessee becomes infructuous.

6. In the result, appeal of the revenue as well as the CO of the assessee stands dismissed.

Order pronounced in the open court on 18th June, 2025

Sd/-
(Prashant Maharishi)
Vice President

Sd/-
(Prakash Chand Yadav)
Judicial Member

Bangalore,
Dated 18th June, 2025.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.