

**IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, VP AND  
SHRI NARENDRA KUMAR BILLAIYA, AM**

ITA Nos. 7392 & 7393/Mum/2016  
(Assessment Years: 2008-09 & 2007-08)

Jagmandri Finvest Private Limited D-108, Lotus Ansal Vihar, New Link Road, Nr. Shimpoli Telephone Exchange, Borivali (W), Mumbai-400 092	Vs.	ITO-9(2)(1) Mumbai
PAN/GIR No. AAACJ 1452 A		
<b>(Appellant)</b>	:	<b>(Respondent)</b>

<b>Appellant by</b>	:	Shri S. G. Goyal
<b>Respondent by</b>	:	Ms. Kavita P. Kaushik (Sr. DR)

<b>Date of Hearing</b>	:	11.06.2025
<b>Date of Pronouncement</b>	:	20.06.2025

**ORDER**

Per Saktijit Dey, VP:

The captioned appeals by the assessee, arise out of two separate orders, both dated 20.06.2014, by learned Commissioner of Income Tax (Appeals), Mumbai ('ld.CIT(A) for short), pertaining to the assessment years (A.Y.) 2007-08 and 2008-09.

2. The appeals have been filed more than two years beyond the prescribed period of limitation. To be precise, there is delay of 849 days in filing these appeals. Considering the issue of inordinate delay in filing the appeals, the parties, at the outset were heard on the issue of condonation of delay.

3. Having considered rival submissions and perused the materials on record on this preliminary issue, we have to examine whether the assessee has made out sufficient cause

for condoning delay. At this stage, it is relevant to observe, section 253 of the Income Tax Act, 1961 ('the Act' for short) provides right to appeal, both, to the assessee as well as the Assessing Officer (AO) against certain orders which are appealable before the Tribunal as per the said provision. Thus, the right to appeal under the Act, is a statutory right, circumscribed by prescription of limitation as per sub-section (3) of section 254. The appeal has to be filed within a period of 60 days from the date of receipt of order appealed against. While explaining the cause of delay, the assessee through its Affidavit dated 18.06.2019 and subsequent submissions made before the Bench on 06.06.2025, has said that due to severe financial crisis, the assessee was unable to arrange fee for filing the appeals. It is further stated that in November, 2016, son of one of the Directors who happened to be an intern at USA made a remittance to have the appeal filed. In support of contention of financial crisis, the assessee has filed certain documents, such as, financial statements, bank statement of one of its Director's, etc. The financial statements furnished before us do not demonstrate any severe financial crisis of the nature which could have prevented the assessee from making payment of fee of the Tribunal, amounting to Rs.10,000/- for each appeal aggregating to Rs.20,000/-. Further, on perusal of the bank statement of one of the Director's, namely, Late Shri Dharmesh Agrawal, it is observed that from June, 2014 onwards on various dates the balance in the bank account was more than sufficient to meet the expenditure to be incurred for appeal fee. Further, the assessee has not produced any evidence to demonstrate that the appeal fee could only be paid in November, 2016, after receiving remittance from the son of one of the Directors. No documentary evidence at all has been furnished by the assessee to establish such fact. It is hard to believe that the assessee was not in a position to incur even an expenditure of

Rs.20,000/- to pay the appeal fee. Thus, in our view, the plea of financial crisis taken by the assessee to explain the delay is only a make-believe story without any substance.

4. While this bench respectfully agrees with the ratio laid down by the Hon'ble Supreme Court in case of *Collector Land Acquisition, Anantnag vs Mst. Katiji & Ors* 1987 SCR (2) 387, however, at the same time, it cannot be overlooked that as per the provision contained under sub section (5) of section 253 of the Act, the Tribunal has power to condone the delay only when it is satisfied that there was sufficient cause for not presenting the appeal within the prescribed period of limitation. In case of *Office Of The Chief Post Master & Ors vs Living Media India Ltd.& Anr* 2012 SC 1506, the Hon'ble Supreme Court, while refusing to condone the delay, has observed that the law of limitation undoubtedly binds everybody including the Government. In case of *Union of India vs. Jahangir Byramji Jeejeebhoy (D)* (SLP (Civil) No. 21096 of 2019), the Hon'ble Supreme Court in judgment dated 03.04.2024 has observed that delay should not be excluded as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. Therefore, while seeking condonation of delay, the party has to prove that it was reasonably diligent in prosecuting the matter. In the facts of the present appeal, no material has been placed on record to establish the theory of financial crisis which prevented the assessee from filing the appeals. The financial statements including balance sheets of the assessee do not make out a case of acute financial crisis so as to incapacitate the assessee from incurring the appeal filing fee of Rs.20,000/-. Thus, in our considered opinion, the assessee has failed to make out sufficient cause for explaining the delay in filing the appeals.

5. In view of the aforesaid, we decline to condone the inordinate delay of 849 days in filing the appeal. Accordingly, the appeals are dismissed *in limine* without being decided on merits.

6. In the result, the appeals are dismissed.

*Order pronounced in the open court on 20.06.2025*

Sd/-

(N. K. Billaiya)  
Accountant Member

Mumbai; Dated : 20.06.2025  
Roshani, Sr. PS

Sd/-

(Saktijit Dey)  
Vice President

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai