

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “C”, MUMBAI  
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 2918/MUM/2025 (A.Y: 2012-13)**

**Marvellous Builders Pvt. Ltd.**

A-101, B-104, B-105, 1<sup>st</sup> floor, Vs.  
Ajinkya Durga CHSL, Nanda Patkar  
Road, Vile Parle East,  
Mumbai-400 057

**PAN: AACCM3251E**

**(Appellant)**

**DCIT Cen. Circle 8(1)**

R. No. 656, 6<sup>th</sup> floor, Aayakar  
Bhavan, Maharshi Karve Road,  
Mumbai-400 020

**(Respondent)**

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Devendra Jain, Ld. AR</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri R. A. Dhyani, Ld. DR</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>12.06.2025</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>18.06.2025</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal is filed by the appellant/assessee against the order dated 02.02.2017 of Learned Commissioner of Income Tax (Appeals) – 50, Mumbai [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] for the A.Y. 2012-13, wherein the Ld. CIT(A) has dismissed the appeal ex



parte as despite services of notice, the assessee has failed to present its case before the Ld. CIT(A).

2. An application for condonation of delay has been filed by the appellant/assessee stating that statistically there is delay of 2947 days and narrated the reasons for filing the appeal after the due date. The application is supported by affidavit of the assessee therein contending the reasons for delay in filing the appeal as extracted below:-

*“1. That the Order u/s 250 of the Income Tax Act, 1961 dated 02/02/2017 was passed by Ld. Commissioner of Income Tax( Appeals)-50, for A.Y. 2012-13 in case of Marvellous Builders Private Limited.*

*2. That Late Mr. Kuldeep Pednekar was the shareholder-director of Marvellous Builders Private Limited (PAN: AACCM3251E) (CIN: U70200MH1998PTC116819). His MCA DIN was 01446517. His PAN was AAFPP9631D. He was handling the operations and finances of the Company. Since 2016 he became critically ill due to Acute Chronic Kidney Disease and hence his health condition started deteriorating and he was on Dialysis. Also his physical movements were restricted since then. He was bed ridden after that and later on admitted to Lilavati Hospital on 13.12.2017 and was discharged on 31.12.2017. Mr. Kuldeep Pednekar expired on 15.08.2020 after prolonged illness. (Copy of Death Certificate is enclosed herewith.)*

*3. That I, Mr. Abhishek Kuldeep Pednekar (presently the Director of the Appellant) and my younger sister, Ms. Hitakshi Kuldeep Pednekar are the only legal heirs of Late Mr. Kuldeep Pednekar.*

*4. That at the time of death of my father I was studying so I was not involved in the business of Marvellous Builders Private Limited as was concentrating on my studies*



*and was not associated with any of the Business transactions of Marvellous Builders Private Limited.*

*5. My mother, Late Mrs. Aboli Kuldeep Pednekar had already passed away on 04.03.2006. I and my younger sister have been struggling to survive since the death of our parents.*

*6. That the Email ID of my father, Late Mr. Kuldeep Pednekar and Marvellous Builders Private Limited were not accessible to me. I was not aware of the mobile number registered on the Income Tax website for Marvellous Builders Private Limited.*

*7. That in the meantime, the name of Marvellous Builders Private Limited was struck off from the Register of Companies based on public notice dated 12.09.2018, as Late Mr. Kuldeep Pednekar could not attend to financial, taxation and legal compliance matters of Marvellous Builders Private Limited due to his failing health since the year 2016.*

*8. That subsequently, I, Mr. Abhishek Kuldeep Pednekar (DIN: 07176540) (PAN: BOYPP5754F) took over the affairs of Marvellous Builders Private Limited after completion of my studies and death of my father.*

*9. That I got the name of the Company restored with the Registrar Companies vide Order of the National Company Law Tribunal, Mumbai dated 20.01.2023. (Copy of the NCLT order restoring the name of the Company with Registrar of Companies is enclosed)*

*10. That as my father was handling all the business and income tax matters it took a lot of time for me to settle in the Business and income tax matters due to all these legal complications. Meanwhile during the month of February 2025 when I was checking all the old files and papers, I saw an envelope which was received from the income tax department and then I came to know about the Order under section 250 dated 02.02.2017 for Assessment Year 2012-13 and then I took the help of the Consultant for*



*the further proceedings to file an appeal. It was because of this reason; I could not file appeal within the statutory limitation period of 60 days.*

*11. Hence, this affidavit is being made in support of its application to the Hon'ble Income Tax Appellate Tribunal, Mumbai to condone the delay in filing of appeal.*

*Whatever is stated hereinabove is true to the best of my knowledge, information and belief.”*

3. The application is supported by affidavit of the assessee. The assessee put reliance upon the judgment of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition Vs. MST. Katiji & Ors., [1987] 167 ITR 471 (SC)*, dated 19.02.1987, the Hon'ble Apex Court was pleased to hold regarding the condonation of delay as under:

*“The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits”. The expression “sufficient cause” employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making of justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.*

*And such a liberal approach is adopted on principle as it is realized that:*

1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.



2. *Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.”*
4. We have heard the Ld. AR on behalf of the assessee and Ld. DR on behalf of the revenue. Ld. AR argued that the reasons given in affidavit seeking condonation of delay, makes out sufficient cause for condonation of delay.
5. The Ld. DR supported the judgment of the Ld. CIT(A) and argued that appellant has failed to show sufficient cause for condonation of so much delay.
6. We have considered the arguments and examined the record. Since the assessee has filed affidavit in support of condonation of delay and no contradictory facts has been brought on record by the revenue to the effect that contents of the affidavit are false. Further it is to be noticed that in between covid pandemic also created havoc in society and that situation also need to be considered while considering the condonation of delay in that case because in Suo Moto Writ Petition (Civil) No. 3 of 2020 vide order dated 10.01.2022, was pleased to direct the condonation of delay on account of covid pandemic and extended limitation period



for judicial and quasi judicial proceedings from March 15, 2020 to February 28, 2022. The Hon'ble Supreme Court has further allowed the filing of the proceedings whatever it may be within the limitation period starting the limitation from 01.03.2022. For these reasons, we find it expedient in the interest of justice that the assessee has shown sufficient cause for condonation of delay in filing the appeal before us. Hence, the delay in filing the appeal is accordingly condoned.

7. Further, it was argued on behalf of the appellant/assessee that the notice issued by the Ld. CIT(A) were never received or served upon the assessee and as such they could not present its case before the Ld. CIT(A) who proceeded ex parte and decided the appeal without giving effective opportunity of hearing to the assessee and as such the assessee was prevented from presenting its case before the Ld. CIT(A). Therefore, the impugned order suffers from illegality and liable to be set aside. The Ld. DR on the other hand supporting the judgment of the Ld. CIT(A) stating that there is no merit in the appeal and same is liable to be dismissed.
8. We have considered the rival submissions. Section 250 sub section 2(a) of "*the Act*" provides as under:



“Section 250 (2) The following shall have the right to be heard at the hearing of the appeal: -

*a. The appellant, either in person or by an authorised representative;”*

9. It is evident from the provision that the hearing to be given is not a formality but an effective hearing is sine qua non for the purpose of upholding the principal of natural justice. We have examined the impugned order and in para no. 3.1 of the Ld. CIT(A) observed as under:

-

*“3.1 In the course of the appeal proceedings hearing was fixed on 01.09.2016. The notice was sent by speed post and was delivered to the appellant. There was no response from the appellant. Subsequently another notice was issued to the appellant fixing hearing on 20.10.2016. Again the appellant failed to respond to the hearing notice. Thereafter another hearing notice was issued fixing hearing on 25.01.2017 along with a covering letter. In the covering letter it was clearly mentioned that in case the appellant fails to appear for hearing on 25.01.2017, the appeal will be decided on the basis of material available on record. Again there was no response from the appellant. Therefore, it appears to me that the appellant is not serious about prosecuting the appeal. I, therefore, proceed to decide the appeal based on the materials available on record.”*

10. It is thus evident from the contents of the impugned order extracted above that no effective opportunity of hearing has been given and there is no proof that the notice sent on various dates were duly served or brought to the notice of the appellant/assessee.



11. For these reasons, we are of the considered opinion that matter needs to be restored to the file of the Ld. CIT(A) for deciding afresh after giving effective hearing to the assessee who shall present its case before the Ld. CIT(A) within 60 days. The impugned order is accordingly set aside and appeal filed by the assessee is allowed in above terms.

12. In the result, appeal filed by the assessee is **allowed for statistical purposes.**

**Order pronounced in the open court on 18.06.2025**

Sd/-  
**(OM PRAKASH KANT)**  
**(ACCOUNTANT MEMBER)**  
Mumbai / Dated 18.06.2025  
*Dhananjay (Sr. PS)*

Sd/-  
**(RAJ KUMAR CHAUHAN)**  
**(JUDICIAL MEMBER)**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mumbai**