

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No. 2701/M/2025
Assessment Year: 2014-15**

M/s. Najeeb Charitable Trust A-28, Eversweet Apartment, J.P.Road, Jogeshwari(West), Mumbai-400053. PAN: AAATN0425G	Vs.	Exem. Ward2(1) Income Tax Appellant Tribunal Building, Pratishtha Bhawan, Maharishi Karve Marg, Mumbai-400020.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Dipesh Ruparelia, Ld. A.R.
Revenue by : Shri Kavan Limbasiya, Ld. D.R.

Date of Hearing : 12.06.2025
Date of Pronouncement : 12.06.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 31/05/2024, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2014-15.

2. At the very outset, it is observed that there is a delay of 262 days in filing of instant appeal, on which the Assessee by filing an application for condonation of delay along with duly sworn affidavit has contended that though the Assessee in response to the notices dated 28.02.2024 and 12.04.2024 u/s. 250 of the Act issued by the Ld. Commissioner, filed its written submission, however, the Ld. Commissioner without giving any opportunity of being heard decided the appeal of the Assessee vide impugned order dated

31.05.2024 u/s. 250 of the Act. The Assessee was unaware of the aforementioned order being passed and therefore missed filing of relevant appeal before the Tribunal, as the erstwhile CA of the appellant did not inform the appellant regarding this order. The appellant was fully dependent on him for income tax related matter. The Assessee recently came to know about the passing of the impugned order. Thus, immediately by appointing a new CA, filed the instant appeal but with the delay of 260 days which has been occurred unintentionally and without any malafide intention and therefore lenient view may be taken and appeal filed by the Assessee may be entertained by condoning the delay.

3. On the contrary, the Ld. DR refuted the claim and conduct of the Assessee by demonstrating the fact from the impugned order that before the Ld. Commissioner as well, the Assessee was at fault and there was also delay in filing first appeal before the Ld. Commissioner and therefore no leniency is attracted in this particular case.

4. This Court has given thoughtful consideration to the peculiar facts and circumstances. The contentions/allegations raised by the Assessee with regard to the condonation of delay, are not at all appreciable as the allegations are against the professional, who is duty bound to protect the interest of the client. The Assessee has not filed any communication and/or letter and/or any supportive documents, in order to demonstrate the negligence of the erstwhile CA. Therefore, this Court cannot encourage this kind of allegations/contention/plea and thus inclined not to entertain this particular reason, as condonation of delay. However, considering the peculiar facts and circumstances in totality and the fact that Ld. Commissioner decided the appeal filed by the Assessee without giving any opportunity for personal hearing, though the Assessee

has claimed that it has specifically requested and the Assessee has also claimed that may be, exemption can be denied but otherwise the statutory benefits cannot be denied. Thus, the issue involved in the instant appeal requires reconsideration of the facts and circumstances. Hence, the delay is condoned, however subject to deposit of Rs. 11,000/- in the Revenue Department under "other head".

5. Coming to the merits of the case, the Assessee has raised the debatable issue, which has not been decided by the Ld. Commissioner and therefore this Court deem it appropriate to remand the instant case to the file of the Ld. Commissioner for the decision afresh, suffice to say while providing reasonable opportunity of being heard to the Assessee.

6. The Assessee is also directed to comply with the notices and file the relevant documents and reply, which would be essentially required/needed for proper adjudication of the case. This Court clarify that in case of subsequent default, the assessee shall not be entitled for any leniency.

7. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 12.06.2025.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Anandi, Stenographer.

Copy to: The Appellant
The Respondent

The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.