

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'SMC' BENCH, KOLKATA**

Before Shri Duvvuru RL Reddy, Vice-President (KZ)

**I.T.A. No. 4/KOL/2025
Assessment Year: 2015-2016**

***Farhan Ahmed,.....Appellant
Tower 4, Flat 81, Sunflowers Garden,
74, Topsia Road, South Topsia,
Kolkata-700046, West Bengal
[PAN:BMRPA2975G]***

-Vs.-

***Income Tax Officer,.....Respondent
Ward-31(1), Kolkata,
10B, Middleton Row, Kolkata-700071***

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Kallol Mistry, JCIT, Sr. D.R., appeared on behalf of
the Revenue*

Date of concluding the hearing: June 23, 2025

Date of pronouncing the order: July 22, 2025

O R D E R

The present appeal is directed at the instance of assessee against the order of Id. Additional/Joint Commissioner of Income Tax (Appeals)-9, Mumbai dated 19.08.2024 passed for Assessment Year 2015-2016.

2. The appeal is time barred by 11 days in filing the appeal by the assessee before the Id. CIT(Appeals). Though the assessee filed

a condonation petition before the ld. CIT(Appeals) and prayed to condone the delay, but the ld. CIT(Appeals) dismissed the appeal of the assessee *in limine* for non-filing of condonation petition within the specified time limit before him in conformity with the provisions of section 249(2) of the Act and there was no sufficient cause for condonation of the delay. He further submitted that the assessee was not aware of the date of hearing before the ld. CIT(Appeals). Therefore, the assessee was not in a position to appear before the ld. CIT(Appeals). Due to that, the ld. CIT(Appeals) dismissed the appeal filed by the assessee without condoning the delay on the ground that there was no sufficient cause for condonation of the delay in filing of the appeal as well as negligent attitude on the part of the appellant.

2.1. The appeal is also time-barred by 62 days in filing the appeal by the assessee before the Tribunal. Though the assessee filed an affidavit dated 26th December, 2024 saying that the relevant documents to file the appeal petition unfortunately got misplaced from the Chamber of the appointed Advocate Shri S.K. Ray. Therefore, he did not file the appeal within the prescribed time limit before the Tribunal and prayed to condone the delay.

3. Considering the facts and circumstances of the case, I am of the view that the assessee was prevented in filing the appeal within the stipulated time. Therefore, I am inclined to condone the delay of 62 days. Hence the delay is condoned.

4. The facts in brief are that the income tax Return was filed showing total income of Rs.3,08,220/- and the case was picked up for scrutiny through CASS and in terms of notices u/s 143(2) and 142(1), all the compliances were made by representations from time to time, with proper explanations, submission along with the supporting documents were duly filed before the Id. I.T.O, Wd-31(1)/Kolkata and continued in all respect, but Id. Assessing Officer passed the assessment order u/s. 143(1), and determined the gross trade value of sale of 25,000 shares of M/s. Thyrocare Lab to Rs.10,17,600/- and added to the total income of the assessee u/s 68 of the Act. On being aggrieved, the assessee preferred an appeal before the Id. CIT(Appeals) with a delay of 11 days. But the Ld. Addl /JCIT (Appeal)-9 Mumbai without taking into consideration of the same simply dismissed the Appeal filed by the assessee saying that “since the delay in filing the appeal has not been condoned, consequently the appeal of the appellant becomes *non-est* and therefore the same is not admitted.”.

5. On being aggrieved, the assessee preferred an appeal before the ITAT. None appeared on behalf of the assessee at the time of hearing. Therefore, I have decided to dispose of the appeal after hearing the Id. Departmental Representative and perusing the material available on record.

6. It was the submission of the Id. Departmental Representative that sufficient opportunity was being provided to the assessee. The Id. Addl./JCIT(Appeals) did not condone the delay on the ground that there was no sufficient cause for condonation of the delay in

filing of the appeal as well as negligent attitude on the part of the appellant. The ld. D.R. pleaded to uphold the order of ld. Addl./JCIT(Appeals).

7. I have perused the material available on record. By considering the totality of the facts and circumstances of the case, I am inclined to condone the delay. Therefore, in order to ensure the principle of natural justice, I am of the view that it is a fit case to provide one more opportunity to the assessee to decide the case on merit. Therefore, I remit the matter back to the file of ld. Assessing Officer with a direction to dispose of the appeal without any inference on the observations of earlier order passed by him and to decide the issue afresh on merit. At the same breath, I also hereby caution the assessee to promptly co-operate with the proceedings before the Ld. Assessing Officer failing which the Ld. Assessing Officer shall be at liberty to pass appropriate order in accordance with law and merits of the case, based on the materials available on the record. Thus, the grounds raised by the assessee in the appeal is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 22/07/2025.

Sd/-

(Duvvuru RL Reddy)
Vice-President (KZ)

Kolkata, the 22nd day of July, 2025

*Copies to :(1) Farhan Ahmed,
Tower 4, Flat 81, Sunflowers Garden,
74, Topsia Road, South Topsia,
Kolkata-700046, West Bengal*

*(2) Income Tax Officer,
Ward-31(1), Kolkata,
10B, Middleton Row, Kolkata-700071*

(3) Addl./JCIT(A)-9, Mumbai;

(4) CIT - , Kolkata;

(5) The Departmental Representative;

(6) Guard File

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By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.