

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

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

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.236/RPR/2025**

**निर्धारण वर्ष / Assessment Year : 2014-15**

Sandeep Kaur Gill  
26/102, Shukla Colony,  
Ravi Shankar, Shukla Ward,  
Raipur (C.G.)-492 001  
PAN: ADCPG7812K

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-3(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 31.07.2025

घोषणा की तारीख / Date of Pronouncement : 31.07.2025

**आदेश / ORDER****PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld. CIT(Appeals)/NFAC, Delhi dated 15.09.2022 for the assessment year 2014-15 as per the grounds of appeal on record.

2. At the time of hearing none appeared on behalf of the assessee nor any adjournment application have been filed. The matter is heard after recording the submissions of the Ld. Sr. DR and on careful perusal of the material available on record.

3. At the very outset, it is noted that the registry has calculated the delay in this case for 873 days. However, explaining the reasons for the said delay, the assessee has filed condonation application as well as affidavit, wherein it is stated as follows:

“1 That I have filed appeals before the Hon'ble Raipur Bench of Income Tax Appellate Tribunal against the orders passed by the Learned Commissioner of Income Tax (Appeals) under section 250 of the Income Tax Act, 1961 for the assessment year 2014-15.

2. That there is a delay of 873 days in filing of appeals, for which the assessee has submitted a petition seeking condonation of delay.

3. That the delay occurred due to the fact that my nephew and earlier counsel did not support or inform me about the status of the proceedings.

4. That it was only at a later date, upon checking the e-filing portal of the Income Tax Department, I came to know that

the order from the CIT(A) had already been passed in the month of September 2022.

5. That the delay is thus completely bona fide and unintentional, caused by circumstances beyond my control. I have acted diligently and in good faith upon discovering the order.”

4. The Ld. Sr. DR in this regard submitted that as inordinate delay of 873 days involved in filing of the appeal, therefore, the same may not be condoned.

5. Having heard the submissions of assessee and the Ld. Sr. DR on the ground of limitation, I am of the considered view that such delay has been caused due to fault on the part of the earlier counsel of the assessee who had not informed the assessee about the status of the proceedings. The Ld. Sr. DR has failed to bring on record any evidence regarding any malafide conduct on the part of the assessee which resulted to cause such delay. Considering the aforesaid facts, I am of the view that the reasons for delay involved in filing of the present appeal is bonafide and unintentional which was caused by circumstances beyond the control of the assessee. In so far the delay is concerned, it would be relevant to point out that the Hon'ble Supreme Court in the case of **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025**, had observed that a justice oriented and liberal approach

ought to be adopted while considering the aspect of condoning the delay involved in filing of the appeal. Also, the **Hon'ble High Court of Chhattisgarh** in the case of **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025**, after relying on the judgment of the Hon'ble Supreme Court in the case of Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur (supra) had held that a justice oriented and liberal approach be adopted while considering the application filed by the assessee for condonation of delay.

6. That in the recent judgment of the **Hon'ble Supreme Court** in the case of **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21<sup>st</sup> March, 2025**, the Hon'ble Apex Court while interpreting Section 5 of the Limitation Act, 1963 regarding the condonation of delay in respect of case of land acquisition has observed and held on the aspect of delay that although the delay cannot be condoned without sufficient cause, the merits of the case could not be discarded solely on the ground of delay. A liberal approach, therefore, should be taken in condoning the delay when limitation ground undermines the merits of the case and obstructs the substantial justice. In other words, the objective of the court should be to deliver substantial justice coupled with liberal and judicious

approach while deciding the issue of limitation and whenever it is found that the case has merits which needs to be addressed substantially, in such case, the delay should be condoned. Accordingly, the said delay of 873 days involved in the present appeal is condoned.

7. On a perusal of the record, it is evident from Paras 3.2 and 4 of the impugned order, the Ld.CIT(Appeals) /NFAC vide an ex-parte order had dismissed the appeal of the assessee due to non-compliance by the assessee in limine. For the sake of clarity, the Paras 3.2 and 4 of the Ld.CIT(Appeals)/NFAC's order are culled out as follows:

“3.2 In order to give proper opportunity to the appellant to present its case and to defend the grounds of appeal taken by the appellant, the case was posted for hearing on various dates, the details of which are as under:

Date of notice	Date of compliance	Status
06.01.2021	08.01.2021	No compliance
02.09.2021	13.09.2021	No compliance
30.06.2022	15.07.2022	No compliance
24.08.2022	08.09.2022	No compliance

4. The aforesaid notice also remains uncomplied with. As can be seen from the above details, the appellant has been provided reasonable number of opportunities but appellant has chosen not to avail any of these. No written submission has been made by the appellant in support of the grounds taken during the appeal. It appears that the appellant is not keen to pursue the appeal and no material/argument has been brought on record by the appellant against the order of

the CPC, Bangalore and in support of the grounds taken in appeal.”

8. The Ld. Sr. DR has fairly conceded that the matter may be adjudicated denovo on merits before the first appellate authority providing one final opportunity to the assessee.

9. I have carefully considered the contents in the documents/material available on record. As per the aforesaid examination of the entire spectrum of the matter in the interest of natural justice, I deem it fit and proper to provide one final opportunity to the assessee to represent his case on merits before the Ld. CIT(Appeals)/NFAC.

10. On a perusal of the order of the Ld.CIT(Appeals)/NFAC, it is observed that the Ld.CIT(Appeals)/NFAC dismissed the appeal of the assessee in limine for non-compliance without dealing with the merits of the case. In my considered view, once an appeal is preferred before the CIT(Appeals), it becomes obligatory on his part to dispose off the same on merit and it is not open for him to summarily dismiss the appeal on account of non-prosecution of the same by the assessee. In fact, a perusal of Sec.251(1)(a) and (b), as well as the “Explanation” to Sec.251(2) of the Act reveals that the CIT(Appeals) remains under a statutory obligation to apply his mind to all the issues which arises from the impugned order before him. As per the mandate of law the CIT(Appeals) is not vested with

any power to summarily dismiss the appeal for non-prosecution. The aforesaid view is fortified by the judgment of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**. In the aforementioned case the Hon'ble High Court had observed as under:

"8. From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Sec. 251(1)(a) and (h) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-s. (2) of [s. 251](#) of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under [s. 246A](#) of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non-prosecution of the appeal by the assessee. This is amply clear from the [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 251(2) of the Act which requires the CIT(A) to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act."

11. Respectfully following the aforesaid order, I set-aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file for denovo adjudication while complying with the principles of natural justice as per similar terms. At the same time, it is directed that this being the final opportunity, the assessee shall duly comply with the hearing notices from the Ld.CIT(Appeals)/NFAC.

12. As per the aforesaid terms, the grounds of appeal raised by the assessee stands allowed for statistical purposes.

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

Order pronounced in open court on 31<sup>st</sup> day of July, 2025.

Sd/-

**(PARTHA SARATHI CHAUDHURY)**

**न्यायिक सदस्य/JUDICIAL MEMBER**

रायपुर / Raipur; दिनांक / Dated : 31<sup>st</sup> July, 2025.

SB, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,  
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur