IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, BANGALORE

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI SOUNDARARAJAN K, JUDICIAL MEMBER

ITA No.942/Bang/2025
Assessment Year: 2008-09

Karnataka Bank Ltd., Near Mahaveera Circle, Pumpwell, Kankanady, Mangaluru – 575 002. **PAN – AABCT 5589 K**	Vs.	The Dy. Commissioner of Income Tax, Central Circle – 1(1), Mangaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri S Ananthan, CA
Revenue by	:	Shri Shivanand Kalakeri, CIT (DR)

Date of hearing	:	03.07.2025
Date of Pronouncement	:	30.07.2025

O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the Revenue against the order passed by the ld. CIT(A), Mysore vide order dated 21/06/2011 for the assessment year 2008-09.

2. At the outset, we note that there was a delay of 4,900 days in filing the appeal by the assessee. The assessee filed a condonation petition along with a chart and affidavits. The reasons mentioned for the delay were that the assessee, consciously and vigilantly, was trying to

avail alternate remedies available under the provisions of the Act. It was also stated that if the delay attributable to availing such remedies is excluded, there is no delay in filing the present appeal.

3. In view of the above, the learned AR for the assessee submitted before us that the delay occurred due to unavoidable situations. Therefore, the delay in filing the appeal should be condoned.

4. The learned AR further submitted that the issue on merit, in the assessee's own case for the same assessment year, was already decided in its favour by the Hon'ble Jurisdictional High Court in ITA No. 400 of 2018, vide order dated 27.07.2021.

5. On the other hand, the learned DR submitted that the delay was inordinate. Therefore, he strongly opposed condoning such a huge delay. However, he could not controvert the arguments advanced by the learned AR for the assessee. As such, the learned DR left the matter to the discretion of the bench.

6. We have perused the records and heard the rival submissions of both sides. There was indeed a delay of 4,900 days in filing the appeal by the assessee. Certainly, this delay is significant. But the length of the delay becomes unimportant if there is sufficient cause preventing the assessee from filing the appeal in time. We need to consider the cause for the delay, not the length of the delay. Therefore, in our considered view, when there is a reasonable cause, the period of delay is not a relevant factor.

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6.1 The Hon'ble Madras High Court in *CIT v. K.S.P. Shanmugavel Nadai and Ors*, reported in 153 ITR 596, held as under:

> *"Since in this case the assessee had been prosecuting other remedies, the time taken by those proceedings should naturally be taken while determining the question whether the assessee had sufficient cause for not presenting the appeal in time. Therefore, the revenue was not right in submitting that the appeal filed under section 17 was an appeal against the original order of assessment under the Act, which was passed about 20 years ago, as it was evident that the appeal was against an order of rejection of relief by the assessing authority. Thus, though the Tribunal's view that there was no question of limitation in such cases, was not correct yet the AAC was right in condoning the delay and entertaining the appeal."*

6.2 From the above, we note that the Hon'ble Madras High Court condoned a delay of nearly 20 years. The Court found sufficient and reasonable cause for not filing the appeal within the limitation period. Thus, in the present case, the delay of 4,900 days cannot be considered inordinate or excessive when compared to a delay of about 7,330 days.

6.3 The next question is what constitutes sufficient cause. It is not defined anywhere in the Act but refers to situations beyond the control of an ordinary person. What is beyond a person's control must be tested by applying a reasonable approach under normal circumstances. No strict rule can apply to decide whether there was sufficient cause. It depends on a case-to-case basis. However, Hon'ble Courts in a series of judgments have held that sufficient cause should be interpreted in a way that advances substantial justice.

6.4 The following principles laid down by the Hon'ble Apex Court in *Mst. Katiji* (167 ITR 471) must be kept in mind:

(i) Normally, a litigant does not benefit from filing an appeal late.

(ii) Refusing to condone delay may reject a meritorious matter

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at the threshold, defeating justice. In contrast, condoning the delay allows the matter to be decided on merits.

(ii) The requirement to explain "every day's delay" should not be interpreted strictly. A rational and practical approach is needed.

(iii) When substantial justice and technical considerations conflict, substantial justice should be preferred. The other side does not have a vested right in injustice because of a non-deliberate delay.

(iv) There is no presumption that delay is deliberate, negligent, or done in bad faith. Litigants do not benefit from delays and face serious risks.

(v) The judiciary is respected not for legalizing injustice on technical grounds but for removing injustice.

6.5 From the above judgment, we note that substantial justice should prevail over technical defects.

6.6 It is a settled law that when a case is filed beyond the limitation period, the petitioner must explain what was the "sufficient cause." This means an adequate and reasonable reason that prevented him from filing within the prescribed time. The Hon'ble Supreme Court has explained this in the following cases:

(a) Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81:
"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", in as much as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and

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circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained in active". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee (AIR 1964 SC 1336 Mata Din v. A. Narayanan [(1969) 2 SCC770),Parimal v. Veena [(2011) 3 SCC 545] and Moniben Devraj Shah v. Municipal Corpn.of Brihan Mumbai (2012) 5- SCC 157].)"

(b) Ajay Dabre v. Pyare Ram 2023 SCC Online SC 92:
'13. This Court in the case of Basawaraj v. Special Land Acquisition Officer while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

> *"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."*

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant.

6.7 Thus, it is clear that discretion to condone delay must be exercised judiciously based on the facts of each case. We also note that the Hon'ble Gujarat High Court in *Vareli Textile Industry v. CIT*, reported in 154 Taxman 33, held as under:

> *It is equally well-settled that where a cause is consciously abandoned (as in the present case) the party seeking condonation has to show by cogent evidence sufficient cause in support of its claim of condonation. The onus is greater. One of the propositions of settled legal position is to ensure that a meritorious case*

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is not thrown out on the ground of limitation. Therefore, it is necessary to examine, at least prima facie, whether the assessee has or has not a case on merits.

6.8 From the above, it is clear that a meritorious case should not be dismissed due to negligence or technical lapses.

6.9 In light of the above discussion, we now evaluate whether the delay in the present case needs to be condoned. From the events discussed in the condonation petition, we find that the assessee was pursuing another remedy. This shows that the assessee was not careless but took necessary steps to resolve the issue.

6.10 At this stage, it is important to note that the issue in question has already been decided in favour of the assessee by the Hon'ble jurisdictional High Court in the assessee's own case cited above. Therefore, we can infer that the assessee was confident of getting a favourable order through the alternate remedy, namely an application under section 154 of the Act the CO .

6.11 In view of the above, we are of the opinion that this is a fit case where the delay should be condoned, regardless of its length. In this case, the Revenue has not filed an affidavit opposing the condonation of delay. This itself is sufficient reason to condone the delay of 4,900 days. We also note that there is no allegation from the Revenue that the assessee deliberately delayed filing the appeal. Therefore, we are inclined to prefer substantial justice over technicalities. Likewise, if we reject the assessee's application for condonation, it would amount to legalizing injustice on a technical ground whereas the Tribunal is capable

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of removing injustice and doing justice. Thus, we condone the delay of 4,900 days in filing the appeal. We now proceed to hear the appeal on merit.

6.12 On merit, we note that the issue has already been decided by the Hon'ble jurisdictional High Court in the assessee's own case for the same assessment year cited above. The order dated 27th July 2021 is placed on pages 5 to 10 of the *case law compilation*. The relevant extract is as under:

> *"This appeal under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as the Act for short) has been preferred by the assessee against the order dated 19.01.2018 passed by the Income Tax Appellate Tribunal.*
> *The subject matter of the appeal pertains to the Assessment year 2008-2009. The appeal was admitted by a bench of this Court on the following substantial questions of law:*
> *"1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside disallowance made under the head investment portfolio by following earlier decisions which has not reached finality even when the assessing authority rightly made disallowance by holding that irrespective of RBI guidelines were applicable to the assessee for the purposes of the I. T.Act or not, as per the principles of accountancy and the various decisions of Apex Court, income should be recognized in a way which reflects a true and fair picture of the affairs of the assessee and accordingly, when bank itself is treating the securities as "held to maturity", for any reason whatsoever, the same should be the case for purposes of Income Tax as this representation alone reflects the true picture of the accounts of the assessee?*
> *2. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside disallowance made under Section 14A read with Rule 8D(2) (ii) and (iii) of the Act on expenditure incurred on earning exempt income even when the assessing authority rightly made disallowances as conditions for making such disallowances were satisfied and assessee failed to show flow of its own funds to those investments from which income is exempt?*
> *3. Whether on the facts and in the circumstances of the case, the Tribunal is right in law holding that the assessee-Bank cannot be considered as a Company by following decisions which has not reached finality and even when as per Section 2(17) of the*

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Act, the Company is defined as an Institution, association or body which is or otherwise assessable or assessed as a Company and as such Section 115JB is applicable to assessee Bank for MAT purposes?

4. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in setting aside disallowance in setting aside disallowance made under Section 40(a) (ia) of the Act on ATM charges of other Banks even though Section 194H and Explanation to said section is applicable to assessee-Bank and as such assessee ought to have deducted TDS on such payments?

2. When the matter was taken up today, the learned counsel for the assessee submitted that the 1st and 3rd substantial questions of law involved in this appeal have already been answered in favour of the assessee by this Court vide judgment dated 16.01.2020 in the case of

COMMISSIONER OF INCOME-TAX, BANGALORE Vs. ING VYSYA BANK LTD reported in [2020] 114 TAXMANN.COM 506 (KARNATAKA)

3. It is further also submitted that the 2nd substantial question of law involved in this appeal also has already been answered in favour of the assessee by this Court vide judgment dated 15.02.2021 in ITA No.133/2015 the case of THE COMMISSIONER OF INCOME-TAX AND ANOTHER. Vs. MIS QUEST GLOBAL ENGINEERING SERVICES PVT. LTD. It is further submitted that the 4th substantial question of law is also answered by a bench of this Court vide Judgment dated 23.11.2020, passed in ITA No.427/2015 in favour of the assessee and against the revenue.

4. The aforesaid submission could not be disputed by the learned counsel for the revenue.

5. For the reasons assigned by us in the aforementioned judgments supra the substantial questions of law framed in this appeal are answered in favour of the assessee and against the revenue.

In the result, appeal filed by the revenue fails and is hereby dismissed."

6.13 In view of the above, respectfully following the judgment of the Hon'ble Jurisdictional High Court, we set aside the order of the learned CIT(A) and direct the AO to delete the addition made by him. Hence, the ground of appeal of the assessee is hereby allowed.

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7. In the result, the delay in filing the appeal is condoned, and the appeal filed by the assessee is hereby allowed.

Order pronounced in court on 30th day of July, 2025

Sd/- Sd/-

(SOUNDARARAJAN K) **(WASEEM AHMED)**
Judicial Member Accountant Member

Bangalore
Dated, 30th July, 2025
/ vms /
Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore

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