

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 1979/Mum/2025
(Assessment Year: 2023-24)**

Durgadevi Navatra Utsav Samiti E/7, Jawan Nagar Chs Ltd S.V. Road, Opp Mangal Kunj Maharashtra – 400092.	Vs.	CIT(E) Room No. 601, 6 th Floor Cumballa Hill, MTNL TE Bldg, Pedder Road, Ld.DR. Gopalrao Deshmukh, Marg
PAN/GIR No. AADTD9110H		
(Applicant)		(Respondent)

Assessee by	Shri Ashwin Chhag
Revenue by	Shri Umashankar Prasad, CIT DR

Date of Hearing	15.07.2025
Date of Pronouncement	24.07.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order dt. 02.09.2023 passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the CIT(E) for the assessment year 2023-24.

2. At the very outset we noticed that there is a delay in 480 days in filing the present appeal by the assessee. In this regard Ld. AR has filed an application for seeking condonation of delay in filing the appeal on the basis of

reasons mentioned in the application and reiterated same as the arguments in support of it and the same are reproduced herein below:

1. Ayushi Bipin Shah, aged 25 years. Settlor and Trustee of Durgadevi Navaratra Utsav Samiti Borivali, Mumbai, having PAN JTDPS1508E, permanently residing at E/7 Jawan Nagar, S.V. Road, Borivali (W) Mumbai-400092, deposed as under, in order to condone the delay in filing the belated appeal u/s. 253 of the Income Tax Act, 1961, before Income Tax Appellate Tribunal, Mumbai vide ITA No. 1979/M/2025 filed in order to restore the Form-10AB filed on 31.03.2023. which was rejected vide order dated 02.09.2023, so as to pray to give one more opportunity for the hearing to regularize the provisional registration of the trust formed on 22/09/2021.

I make the following solemn affirmation in order to condone the delay and to admit the appeal filed u/s.253 of the Income Tax Act, 1961:

(i) That the trust is having its PAN AADTD9110H.

(ii) That the trust is registered with the Joint Charity Commissioner, Greater Mumbai Region, Mumbai vide registration no.E-36633(M).

(iii) That the Trust is provisionally registered vide dated 15.08.2022 for the period A.Y. 2023-24 to A.Y. 2025-26.

(iv) That the Trust filed the form 10AB with the necessary attachment as required therein vide dated 31.03.2023.

(v)..... That in pursuance to filing form 10AB, appellant trust received hearing notice vide dated 9/08/2023 and 26/08/2023. These two notice could not be attended by appellant as the trustee Mrs. Upasana Shetty, failed to recognize the aforesaid notices from her email, who takes care of the income tax matters as being busy in organizing the event of Navratri Ustav Festival which was to organize during the 15.10.23 to 24.10.2023 which is the main object of the appellant. And hence the CIT (Exemptions) Mumbai passed the order in form No-10AD dated 02/09/2023 rejecting the aforesaid application filed in f-10AB with a reason of non-compliance and pointing out several lapses in the application.

(vi)..... That the aforesaid rejection order was appealable before this H'ble Tribunal within 60days from its communication which happens to be 2nd Novembers, 2023.

(vii)..... That appellant rather filing the petition before this h'ble Tribunal on or before 02.11.2023, filed the 2nd application in form 10AB vide dated 26.09.2023, with a disclosure of the earlier rejection, and even this was rejected vide order in form-10AD dated 09.02.2024 stating an incomplete set of documents.

.... That the appellant filed the 3rd application vide dated 27.06.2024, in view of CBDT's benevolent circular vide dated 7/2024 dated 25.04.2024, which also got rejected vide order dated 17.12.2024 stating it being non maintainable in view of earlier rejection order.

(ix)..... That the appellant trust filed the second and third application, in fiduciary capacity, in the professional advice of CA Shri Jinesh N. Doshi, having PAN No. AABPD5563A and his M. No with ICAI 110398.

(x) That in view of above stated facts it is evident that the appellant trust was

vigilant over its rights and duties respectively as it has taken all timely action under the professional advice by taking immediately remedial action with the necessary disclosure of earlier rejection order in f-10AD in order to register itself in the manner prescribed under Income Tax Act, 1961.

(xi) That there is gap of 139 days between filing the 3rd application vide dated 27.06.2024 following the rejection order vide dated 09.02.2024. This gap was because of professional dilemma as to file 3rd application or to file appeal before this Tribunal. The aforesaid CA shri Jinesh N Doshi advised the trust to file the 3rd application in view of the general consensus among of the fraternity professionals in the field to file 3rd application in F-10AB in view of CBDT's circular vide 07/2024 dated 25.04.2024.

(xii) That the 3rd application was rejected, in view of the fact of earlier rejection order, vide order dated 17.12.2024, and hence, the appeal before this, Tribunal was filed on 24.03.2025, thus, delay of 35 days as it took some time to finalize the counsel, CA shri Ashwin S Chhag, who was approached on 01.02.2025 who gave his consent to work on

15.02.2025 but also informed about his unavailability in Mumbai for 18 days besides his prior commitments.

(xiii) That, thus, in view of above, every days delay has been explained which has caused delay in filing this appeal since the 1st rejection order dated 02.09.2023 to 24.03.2025, filing appeal before this Tribunal i.e. 507 days, thus, it is evident that there is no latches or negligence on the part of appellant Trust in delaying in filing of this appeal and that it was subject of professional advice including the necessary disclosures. Thus, there is no mala-fide intention in this belated appeal before this H'ble Tribunal.

(xiv) That though the delay is of 507 days, its condo-nation would not cause any prejudice to the respondent CIT(E), Mumbai as appellant merely seeks one more opportunity to regularize an irregularity in the procedure of registration.

(xiv) That whatever I have stated, above, is true to the best of my knowledge and belief.

3. On the other hand, Ld. DR refuted the contents contained in the application and requested for dismissal of the same.

4. After having heard the counsel for both the parties on this application for seeking condonation of delay and considering the entire factual position as explained before us and also keeping in view the principles laid down by

Hon'ble Supreme Court in the case of ***Land Acquisition Collector Vs MST Katiji and others 1987 AIR 1353 Supreme Court***, wherein it has been held that where substantial justice is pitted against technicalities of non-deliberate delay, then in that eventuality substantial justice is to be preferred. In our view the principle of advancing substantial justice is of prime importance. Hence considering the explanation put forth by the Assessee by justifiably and properly explaining the delay which occurred in filing the appeal and construing the expression "sufficient cause" liberally we are inclined to condone the delay in filing the appeal before us. Therefore, we condone the delay and admit the appeal to be heard on merits.

5. At the very outset, we noticed that assessee was ex-party before Ld. CIT(A). In this regard Ld. AR explained the circumstances before the Bench that there was 'sufficient cause' which prevented the assessee to represent property before Ld. CIT(A).

6. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that there was reasonable cause, because of which assessee could not put effective representation before Ld. CIT(A). Hence the Bench is of the view that one more opportunity

be given to the assessee to represent his case before Ld. CIT(A). Therefore considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of Ld. CIT(A) for deciding the appeal afresh by providing one more opportunity to the assessee. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

6. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

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

Order pronounced in the open court on 24.07.2025

Sd/-

(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 24/07/2025

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai