

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 1412/Mum/2025
(Assessment Year: 2018-19)**

Pravinkumar Harishchandra Choudhary 102, Hill Queen Apartment marol, maroshi Road, Bahvani Nagar, Andheri (E)	Vs.	ITO – 24(3)(1) Piramal Chamber Mumbai
PAN/GIR No. AATPC0999D		
(Applicant)		(Respondent)

Assessee by	Shri Bhupendra Shah
Revenue by	Mr. Virabhadra S. Mahajan, Sr. DR

Date of Hearing	02.07.2025
Date of Pronouncement	22.07.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order dt. 24.04.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2018-19.

2. At the outset, we noticed that the present appeal filed by the assessee is time barred and in this regard an

affidavit for seeking condonation of delay has been filed by the assessee, wherein it has been mentioned as under:

1, Mr. PRAVINKUMAR HARISHCHANDRA CHOUDHARY having premises at 102, HILL QUEEN APARTMENT MAROL, MAROSHI ROAD, BHAVANI NAGAR, ANDHERI (EAST), MUMBAI 400059, Maharashtra, India, do hereby declare on solemn oath and affirmation as follows:

1. That the Appellate order of NFAC, Delhi for AY 2018-19 against Assessment order u/s 143(3) r.w.s 143(3A) and 143(3B) was served to me on 24-04-2024. I was required to file the appeal before ITAT on or before 23-06-2024. However, there is a delay of approximately 240 days. This was because due to the fact that I do not have sufficient knowledge about taxation related matters. Moreover, I was not aware about the Appellate order passed in my case and the person who was handling my taxation matters did not file the appeal and therefore now I have appointed a new Consultant to guide us in this matter. Hence the delay by us was not intentional. Thus the late filing was due to the reasons totally beyond our control. Looking at the above facts the necessary steps could not be taken, please take a lenient view and condone the delay.

2. This delay is wholly unintentional & beyond the control of the appellant. The word 'Sufficient cause' has been construed quite liberally in case of

R.J. Pratap Singh [100 ITR 698 S.C.].

S.N. Ghorpade [48 ITR 54 Mumbai].

3. The word 'Sufficient' cause is used in section 5 of the Limitation Act, hence equally important relevance is attached to it. The Supreme Court has interpreted this phrase which is binding on all courts and Qu-asi-judicial authorities that decide condonation of delay on sufficient cause being shown. Section 5 of the Limitation Act gives the court discretion to be exercised

upon the principles which are well understood by the words 'sufficient cause', which receive a liberal construction so as to advance substantial justice when no negligence or want of bonafide is imputable to the appellant. [Shankutala Jain AIR 69 S.C.]

4. Recently in the case of Improvement Trust vs. Ujagar Singh (Supreme Court) it was held that, "Justice can be done only when the matter is fought on merits and in accordance with law rather than to dispose it off on such technicalities and that too at the threshold; Unless malafied are writ large on the conduct of the party, generally as a normal rule, delay should be condoned. In the legal arena, an attempt should always be made to allow the matter to be contested on merits rather than to throw it on such technicalities. Apart from the above, the appellant would not have gained in any manner whatsoever, by not filing the appeal within the period of limitation. It is also worth noticing that delay was also not that huge, which could not have been condoned, without putting the respondents to harm or prejudice. It is the duty of the Court to see to it that justice should be done between the parties;"

5. In case of MST Katji [167 ITR 471 S.C.], the S.C. enunciated the following principles;

Ordinarily a litigant does not stand to benefit by lodging an appeal late.

Refusing to condone delay can result in a meritorious matter being thrown at the very threshold & cause of justice being defeated as against this, when the delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.

The doctrine must be applied in a rational, common sense and pragmatic manner.

When substantial justice and technical consideration are pitted against each other cause of substantial justice deserves to be

preferred for the other side cannot claim to have vested right in injustice being done, because of a non- deliberate delay.

There is no presumption that delay is occasioned deliberately or on account of culpable negligence or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.

It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Whatever is stated above in Para no 1 is true to my knowledge and belief;

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

6. 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 principals 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.

7. We also noticed that assessee was *ex-parte* 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 properly before Ld. CIT(A). On the other hand DR relied upon the orders passed by the revenue authorities.

8. 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. Since there was non cooperation on behalf of the assessee during the proceedings before the revenue authorities therefore a cost of Rs. 2,000/- is imposed upon the assessee which shall be deposited in the Prime Minister Relief Fund and a

copy of the receipt shall be placed on file before AO within 30 days from the date of receipt of this order. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

9. 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.

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

Order pronounced in the open court on 22.07.2025

Sd/-

(PRABHASH SHANKAR)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 22/07/2025

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