

आयकरअपीलीयअधिकरण, रायपुर न्यायपीठ,रायपुर

IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्रीअरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA Nos: 358, 359 & 360/RPR/2025

(निर्धारण वर्ष Assessment Year: 2019-20, 2020-21 & 2021-22)

Gurmeet Singh Hora, A-1, Sai Nagar, Raipur (C.G.) Chhattisgarh 492001	v	Deputy Commissioner of Income Tax- s 1(1), Aaykar Bhawan, Civil Lines, Raipur Chhattisgarh, 492001
PAN: AAOPH6268D		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri R.B. Doshi, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	01.08.2025
घोषणा की तारीख / Date of Pronouncement	:	04.08.2025

आदेश / ORDER

Per Bench:

The captioned appeals filed by the assessee are directed against the separate orders passed by the Commissioner of Income Tax (Appeal), Addl/JCIT (A)-11, Delhi, [in short "Ld. CIT(A)"], under section 250 of the Income Tax Act, 1961 (in short "the Act"), all dated 17.03.2025, for the Assessment Year 2019-20, 2020-21 and 2021-22, which in turn arises from the intimation issued u/s 143(1) of the Act, dated 14.07.2020, 24.12.2021 and 21.11.2022, respectively.

2. Since the aforesaid matter relates to a single assessee, having similar grounds of appeal, raising identical controversies under equal facts and circumstances, except difference in the quantum of addition, accordingly, for the sake of convenience and brevity, all these matters are heard together and are being adjudicated under this common order.

3. **ITA No.358/RPR/2025** for the AY 2019-20 has been taken up as lead case, wherein our deliberations, observations and conclusion shall have equal bearing in all the remaining two cases, therefore, our decision in ITA 358/RPR/2025 shall apply *mutatis mutandis* to the remaining two appeals, *i.e.* **ITA No.359 & 360/RPR/2025**.

4. The grounds of appeal raised by the assessee in the lead case *i.e.*, **ITA No.358/RPR/2025**, are extracted herein under, which are identical in all three cases:

- “1. *In the facts and circumstances of the case and in law, Id. CIT(A) was not justified in not condoning the delay in filing appeal and in dismissing the appeal in limine. Delay in filing appeal was for a reasonable cause and was liable to be condoned.*
2. *The prima facie adjustment made by CPC u/s 143(1)(a) invoking sec. 36(1)(va) is arbitrary and not justified and was not within the scope of sec. 143(1)(a).*
3. *Disallowance of Rs.8,60,896/- made by CPC on account of delayed payment of employee’s contribution to PF/ESIC is illegal, arbitrary and not justified.*

4. *The appellant reserves the right to add, amend or modify any of the ground/s of appeal.”*

5. The brief facts of the case are that the assessee had filed his return of income for the assessment year 2019-20 in Form ITR-3 on 30.09.2019, which is processed by the Computerized Processing Center (CPC), Bengaluru on 14.07.2020 and has made certain additions regarding disallowance on account of payment towards contribution of provident fund and ESIC beyond due dates stipulated under the respective Acts but paid before the due date of filing of return under Income Tax Act.

6. Aggrieved with the aforesaid additions, the assessee preferred an appeal before Ld. CIT(A), wherein the appeal of the assessee has been dismissed *in-limine* on account of delay in filing of appeal belatedly after 1647 days. The relevant finding of Ld. CIT(A) dismissing the appeal of the assessee read as below:

“2.13 In the present case, it clearly emerges that the appellant had not filed the appeal within a period of 30 days after receipt of the impugned order u/s 143(1) dated 14.07.2020 as prescribed u/s 249(2) of the Act. The appellant has eventually filed an appeal only on 15.02.2025 after a delay of 1647 days without adducing any reasonable cause which prevented him from filing a valid appeal within the 30 days' time limit u/s 249(2).

2.14. Unless and until it is demonstrated that there was a sufficient cause that prevented the appellant from exercising its legal remedy of filing appeal within that

prescribed period of 30 days, the delay thereafter cannot be condoned without there being compelling grounds as advocated by the Hon'ble Courts,

3. Since the appellant has failed to show any "sufficient cause" u/s 249(3) of the Income Tax Act, 1961 for the appellant's failure to file the appeal within the prescribed period of limitation u/s 249(2) of the Income Tax Act, 1961 r.w.s. 5 of Limitation Act, and even thereafter for over 1647 days cannot be condoned.

In the result, the delay in filing of appeal is not condoned and the appeal sought to be filed belatedly after 1647 days of delay is not admitted and dismissed accordingly.

4. In result the appeal of the Appellant is Dismissed."

7. Aggrieved with the aforesaid decision of the Ld. CIT(A), the assessee preferred the appeal before ITAT, which is under consideration before us in the present case.

8. Apropos the delay occasioned in filing of the present appeal before the first appellate authority, Ld. AR representing the assessee submitted that an affidavit dated 12.06.2025, sworn by the assessee and notarized by an advocate. A copy of the same is extracted hereunder for the sake of clarity:



छत्तीसगढ़ CHHATTISGARH

24AA 934571

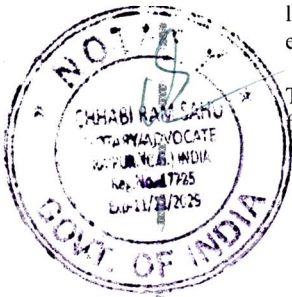
AFFIDAVIT

I, **Gurmeet Singh Hora**, S/o Dilip Singh Hora, aged about 45 years, resident of A-1, Sai Nagar, Raipur (C.G.) do hereby declare on solemn affirmation as under:-

1. THAT in my case intimation u/s 143(1) for A.Y. 2019-20 was issued on 14.07.2020. The appeal before Ld. CIT(A) was required to be filed by 13.08.2020 but the same was filed on 15.02.2025 resulting into delay of 1647 days. Ld. CIT(A) has not condoned the delay in filing of appeal.
2. THAT the appeal before Ld. CIT(A) was delayed due to following reasons: -
 - I. Regarding delay from 13.08.2020 (due date) to 31.05.2022 (656 days)

Although the intimation u/s 143(1) was passed in July, 2020, the time available for filing appeal before Ld. CIT(A) was up to 31.05.2022 for the reason that in *suo moto writ petition* (C) no. 3 of 2022, vide order dt. 10.01.2022, Hon'ble Supreme Court has directed vide para no. 5 (I & III) that in the matter of filing appeal etc., where the limitation expired during the period between 15.03.2020 to 28.02.2022, the aforesaid period shall stand excluded for the purpose of limitation and the period of limitation remaining w.e.f. 01.03.2022 shall stand extended for a period of 90 days.

Therefore, as per the above decision of Hon'ble Supreme Court, the due date of filing appeal before Ld. CIT(A) was 31.05.2022.



12 JUN 2025

(Handwritten signature)

ITA No. 358, 359 & 360/RPR/2025
Gurmeet Singh Hora vs. Deputy Commissioner of Income Tax-1(1)

II. Regarding delay from 01.06.2022 to 15.02.2025 (991 days)

All my matters related to income tax were initially handled by my previous counsel. I was under bona fide belief that whatever tax compliances are to be made, same must be being made by my previous counsel in a timely manner. However, I was constantly experiencing that I was not getting proper professional advice from my previous counsel because even in respect of routine matters, there was substantial delay in various compliances. I realised that this was happening mainly due to advancing age of my previous counsel (who eventually discontinued his practice, to the best of my information, knowledge and belief). Due to inaction on the part of my previous counsel & lack of communication, I was not aware of intimation order, demand raised by CPC and remedy available.

Due to lack of receipt of proper legal assistance & advice, I changed my counsel & when the new counsel checked in portal, he informed me that refunds of subsequent years have been adjusted against outstanding demand of previous years and I was made aware of the adverse consequences of not filing appeal against the intimation issued u/s 143(1) and so, I have taken immediate steps to file the first appeal.

Due to the above-mentioned circumstances, appeal before Id. CIT(A) could not be filed within the prescribed time and there was an unintentional delay in filing the appeal before Id. CIT(A), which I filed with the assistance of my new counsel.

3. THAT this affidavit is being deposed to confirm the above facts.

Place: Raipur
Date: 12.06.2025
CHHABI RAM SAHU
ADVOCATE
RAIPUR (C.G.) INDIA
NO. 477/25
11/12/2025
OF INDIA


(Gurmeet Singh Hora)
Deponent

VERIFICATION

I, **Gurmeet Singh Hora**, S/o Dilip Singh Hora, aged about 45 years, resident of A-1, Sai Nagar, Raipur (C.G.) do hereby confirm that what has been stated in para no. 1 to 3 above is true and correct as per my personal knowledge and belief.

Place: Raipur
Date: 12.06.2025

12 JUN 2025


(Gurmeet Singh Hora)
Deponent

IDENTIFYING WITNESS

**SOLEMNLY AFFIRMED OR
SWORN BEFORE ME BY
THE WITHIN NAMED**


**CHHABI RAM SAHU
NOTARY/ADVOCATE
RAIPUR (C.G.) INDIA**

9. On the basis of the aforesaid affidavit, it was the submission of Ld. AR that the total delay of 1647 days can be further bifurcated in two parts i.e. the delay of 656 days from 13.08.2020 to 31.05.2022, which is covered by the judicial pronouncement of the **Hon'ble Supreme Court** in ***Suo Moto Writ Petition (C) No. 3 of 2022*** vide order **dated 10.01.2022** on account of COVID-19. Regarding the delay of 991 days remaining *i.e.* from 01.06.2022 to 15.02.2025, it was the submission that the matters of the assessee were handled by his previous counsel, who failed to comply the taxation matters in appeal in timely manner. It was the submission that the assessee had not received proper professional advice from a counsel, therefore, the delay had occurred. Assessee has also mentioned about the advancing age of the counsel, who eventually discontinued his practice, therefore, due to inaction on the part of the counsel and lack of communication, the assessee was not aware about the intimation order of demand made by the CPC and remedy available to him.

10. Be that as it may, on the issue of condonation, considering the circumstances that the entire world was going through the panic phase of pandemic *i.e.* Covid-19 and even after extension of limitations by the Hon'ble Supreme Court many are facing issues of health thereafter. Further, in terms of judgment of Hon'ble Supreme Court in the case of **Vidya Shankar Jaiswal**

Vs ITO, Ward-2, Ambikapur, in Special leave Petition (Civil) Nos. 26310-26311/2024 vide order dated 31.01.2025, that while dealing with the condonation of delay a justice-oriented and liberal approach ought to have adopted.

11. Respectfully following the aforesaid guiding principles laid down by the Hon'ble Apex Court, we are of the considered view that delay of 1647 days, which was beyond the control of the assessee should be condoned.

12. Per contra, Ld. Sr. DR opposed the condonation of delay and have submitted a counter affidavit signed by the Deputy Commissioner of Income Tax-1(1), Raipur, which is taken into consideration.

13. Having given a thoughtful consideration to the aforesaid submissions, respectfully following the judgment of Hon'ble Supreme Court, we are of the considered view that the delay of 1647 days deserves to be condoned, and the matter needs to be adjudicated on its merits.

14. Apropos, the obligations on the Ld. CIT(A) to dispose of the matter on merits, our view is supported by the judgment of Hon'ble Mumbai High Court in the case of **CIT vs. Premkumar Arjundas Luthra (HUF) reported in [2016] 240 taxman 133**, wherein Hon'ble Bombay High Court has held as under:

“.....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 Assessing Officer to make further inquiry and report the result of the same to him as found in Section 250(4) of the Act. Further Section 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. Section 251(l)(a) and (b) 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-section (2) of Section 251 of the Act also makes it dear 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 Section 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 with effect from 1st June, 2001 the power of the CIT(A) to set aside the order of the Assessing Officer and restore it to the Assessing Officer for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) is co-terminus with that of the Assessing Officer i.e. he can do all that Assessing Officer could do. Therefore, just as it is not open to the Assessing Officer 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 dear from the Section 251(l)(a) and (b) and Explanation to Section 251(2) of the Act which requires the CIT(A) to apply his mind to at 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.”

15. In view of aforesaid observations of the Hon'ble Bombay High Court, as the delay is condoned by us, the Ld. CIT(A) is directed to deliberate on the issues on its merits based on material available on record, in the interest of justice, accordingly, we restore the present appeal back to the files of Ld. CIT(A) for fresh adjudication.

16. Needless to say, the assessee shall be afforded with reasonable opportunity of being heard in the set aside appellate proceedings. The assessee as conceded before us is directed to cooperate and assist proactively in the set aside proceedings, failing which no further opportunities shall be provided, and the Ld. CIT (A) would be at liberty to decide the case in accordance with the mandate of law.

17. Since we have already decided **ITA No.358/RPR/2025** by restoring the matter back to the file of the CIT(A) for *denovo* adjudication, the other remaining cases i.e. **ITA 359 & 360/RPR/2025** which are identical in nature having similar facts and circumstances, therefore, our decision in **ITA No.358/RPR/2025** shall apply *mutatis mutandis* two **ITA 359 & 360/RPR/2025**,

also. Accordingly, both these appeals are also restored back to the file of the CIT(A).

18. In combined result, all the aforesaid appeals are restored back to the file of the CIT(A) for *denovo* adjudication, in terms of our aforesaid observations, so are **allowed** for statistical purposes.

Order pronounced in the open court on 04/08/2025.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 04/08/2025
**HKS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Gurmeet Singh Hora
2. प्रत्यर्थी/ The Respondent- Deputy Commissioner of Income Tax-1(1)
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

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