

**IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

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| ITA No.827/Bang/2025 |
| Assessment Year: 2019-20 |

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| Balaji Vividodeeshagala Souharda Sahakari Sangha Niyamita, Rader Complex, 1 st Floor, Medleri Roadh Averi, Ranibennur – 581 115. PAN – ABKAS 9046 C | Vs. | The Income Tax Officer, Ward – 1, Haveri. . |
| APPELLANT | | RESPONDENT |

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| Assessee by | : | Shri Siddhesh Nagraj Gaddi, AR |
| Revenue by | : | Shri Ganesh R Ghale, Standing Counsel for Department |

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| Date of hearing | : | 23.06.2025 |
| Date of Pronouncement | : | 26.08.2025 |

ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

This is an appeal filed by the assessee against the order passed by the NFAC, Delhi vide order dated 31/05/2024 in DIN No. ITBA/NFAC/S/250/2024-25/1065299734(1) for the assessment year 2019-20.

2. This appeal by the assessee is directed against the order of the Learned Commissioner of Income Tax (Appeals), dated 31st May 2024. The statutory time limit for filing an appeal before the Tribunal is sixty

days from the date of receipt of the appellate order. In the present case, however, the appeal was filed only on 4th April 2025, resulting in a delay of 248 days. The assessee has moved a petition seeking condonation of the delay, supported by an affidavit, wherein the reasons for the delay have been explained. It is submitted that the assessee, owing to lack of awareness and limited understanding of tax procedures, was not aware that the order had already been passed by the Id. CIT(A). The assessee came to know about the order only when he received a promotional notice under the Vivad Se Vishwas Scheme, upon which he consulted his tax professional. It is further explained that the delay occurred on account of lapses and negligence on the part of the tax consultant who failed to take timely steps. The assessee has emphasized that the delay was neither deliberate nor mala fide, but a result of circumstances beyond his control. Accordingly, the Id. AR prayed for the condonation of delay and to decide the issue on merit of the case.

3. On the other hand, the Id. DR opposed to condone the delay in filing the appeal by the assessee.

4. We have carefully considered the condonation petition, the explanation offered by the assessee, and the submissions of the learned representatives. We find that the explanation is supported by consistent judicial precedents. The Hon'ble Supreme Court in the case of Collector, Land Acquisition v. Mst. Katiji & Ors, reported in 167 ITR 471, has held that ordinarily a litigant does not stand to benefit by lodging an appeal late and that refusing to condone delay may defeat the cause of substantial justice. Similarly, in the case of Rafiq v. Munshilal, AIR 1981 SC 1400, the Hon'ble Supreme Court observed that an innocent party

should not suffer for the negligence of his advocate. It is also relevant to note the decision of the Hon'ble Supreme Court in N. Balakrishnan v. M. Krishnamurthy, AIR 1998, wherein it was held that the length of the delay is not material, but the acceptability of the explanation is the true test. Further, in the cases of Shakti Clearing Agency (P.) Ltd. v. ITO, 80 TTJ 668 (Rajkot) and Sreenivas Charitable Trust v. DCIT, 280 ITR 357 (Madras), the Courts have consistently held that a liberal approach should be adopted in considering applications for condonation of delay when no mala fide or deliberate negligence is attributable to the assessee.

5. In the facts before us, we find that the delay is primarily attributable to lapses of the tax consultant, which constitute a reasonable cause for condonation. The assessee cannot be denied his right of appeal merely because of the fault of his representative. There is nothing on record to suggest that the delay was deliberate or intended to secure an undue advantage. On the contrary, the material shows that the assessee acted promptly and with diligence as soon as he became aware of the appellate order. Having regard to the overall facts and circumstances of the case, and in the larger interest of justice, we are of the considered view that the delay of 248 days deserves to be condoned. Accordingly, we proceed to adjudicate the issue on merit of the case.

6. The issue raised by the assessee is that the learned CIT(A) erred in confirming the disallowances of deduction under section 80P of the Act.

7. The facts in brief are that the assessee is a society registered under Karnataka Souharda Sahakari Act. The assessee for the year under dispute belatedly filed return of income under section 139(4) of the Act dated 23-11-2020. The assessee declared income at NIL after claiming deduction under section 80P of the Act for Rs. 5,30,170/- only. The return was processed under section 143(1) of the Act vide order dated 29-12-2020 where claim of deduction under section 80P of the Act was disallowed for the reason that the return of income was not filed within the due date prescribed under section 139(1) of the Act i.e. 31st August 2018.

8. The aggrieved assessee preferred an appeal before the learned NFAC/learned CIT(A) which was filed as on 15-03-2024 i.e. after 1145 days after the date of intimation order under section 143(1) of the Act. The assessee before the learned CIT(A) submitted that it being a cooperative society filed return of income with the help of tax practitioner. The email id and mobile number registered with the IT portal belong to the tax practitioner. Hence it was unaware about the intimation order being passed disallowing claim of deduction under section 80P of the Act. Accordingly, the assessee prayed the learned CIT(A) to condone the delay.

9. The assessee regarding the delay in filing of return submitted that it was holding 2 PAN hence there was a confusion which PAN should be used for filing the return of income. Therefore, the claim of deduction under section 80P of the Act should not be disallowed for filing of belated return of income.

10. The learned CIT(A) after considering the facts in totality found that the reason stated by the assessee for delay in filing of is not substantiated by the documentary evidence. The explanation of the assessee is nothing but a bald assertion without any basis and the same does not constitute "sufficient cause". The learned CIT(A) found that the notices/order under the Act was issued on the email id, last known address and through e-proceedings portal of ITBA. The year under consideration fall under mandatory e-proceeding period. Hence, the order and notices issued through ITBA is valid mode of services of notices/order. Therefore, it is not open for the assessee to take stand that order/notices not received, or the tax practitioner not checked the email id. The learned CIT(A) in this regard referred the provision of section 282 of the Act r.w.r. 127 of the income tax rules. Accordingly, the learned CIT(A) held that the intimation order served through ITBA is valid and plea of the assessee that he was not aware is mere an excuse rather than a sufficient cause for not filing the appeal within the prescribed time limit. The learned CIT-A referred the various case laws and held that delay can only be condoned where assessee is able to demonstrate the sufficient cause which prevented the assessee from filing appeal within the time limitation. Hence, the learned CIT(A) rejected the appeal of the assessee as not maintainable on account of limitation.

11. Being aggrieved by the order of the learned CIT(A) the assessee is in appeal before us.

12. The learned AR respectfully submitted that there was a delay in filing the appeal before the learned CIT(A). The delay occurred mainly

due to extraordinary circumstances beyond the assessee's control. It was explained that the appeal was required to be filed by 28th January 2021, but it was actually filed on 15th March 2024. Though this resulted in a delay of 1,141 days, but after considering the exclusion granted by the Hon'ble Supreme Court in relation to COVID-19 (from 15th March 2020 to 28th February 2022 and a further 90 days thereafter), the effective delay comes down to 656 days only.

13. The assessee submitted that the delay was neither intentional nor deliberate but was caused by genuine and bona fide reasons. The COVID-19 pandemic disrupted business and compliance activities, leading to severe hardship in meeting statutory deadlines. The assessee also faced confusion due to possession of multiple PANs, which created procedural difficulties in identifying the correct PAN for filing compliance. In addition, reliance was placed on a local professional/CA for handling income tax matters. However, due to lapses on the part of the professional, the appeal was not filed in time, and the assessee remained unaware of the demand raised. The belated filing of the return of income itself also contributed to the delay.

14. It was further submitted that substantial justice should not be denied merely on account of technical delay, especially when the assessee had no mala fide intention and the cause of delay was beyond its control. The Hon'ble Supreme Court has held that liberal interpretation should be adopted in condonation matters when sufficient cause is shown. If condonation is not allowed, the assessee would suffer irreparable loss and hardship, whereas no prejudice would be caused to the Revenue if the delay is condoned. In view of these bona fide

circumstances, the assessee humbly prayed that the delay in filing the appeal may kindly be condoned under section 249(3) of the Act, and the matter be admitted for adjudication on merits in the interest of justice.

15. On the other hand, the learned DR vehemently opposed for the condonation of the delay.

16. We have heard the rival contentions of both the parties and perused the materials available on record. The facts show that the intimation order under section 143(1) of the Act was passed on 29.12.2020, and the statutory time limit for filing appeal against the impugned intimation order expired on 28.01.2021. The appeal, however, was filed only on 15.03.2024, resulting in a delay of 1,141 days. The assessee has prayed for condonation of delay, explaining that the delay was on account of the extraordinary circumstances arising from the COVID-19 pandemic, procedural difficulties relating to multiple PANs, reliance on its tax consultant, and belated filing of return. It is also submitted that after considering the exclusion period granted by the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020* and *Miscellaneous Application No. 21 of 2022* (extending limitation from 15.03.2020 till 28.02.2022 with further 90 days), the effective delay is reduced to 656 days.

16.1 We find merit in the explanation of the assessee. The Hon'ble Supreme Court in *Collector, Land Acquisition v. Mst. Katiji & Ors* [167 ITR 471 (SC)] has held that a litigant ordinarily does not stand to benefit by lodging an appeal late and that substantial justice should prevail over technical considerations. Similarly, in *N. Balakrishnan v. M.*

Krishnamurthy [(1998) 7 SCC 123], the Hon'ble Apex Court laid down that the length of delay is not material; what matters is whether the explanation offered is reasonable and bona fide. The Courts have consistently followed a liberal approach in condoning delay, provided there is no mala fide intention. In the present case, there is nothing on record to suggest that the assessee deliberately delayed the filing. On the contrary, the explanation is supported by surrounding circumstances, including disruption due to the pandemic and negligence of the tax consultant, which constitute "sufficient cause" within the meaning of section 249(3) of the Act.

16.2 We are therefore of the view that the delay deserves to be condoned in the larger interest of justice. Denial of condonation would cause grave prejudice and irreparable loss to the assessee, whereas condoning the delay would not result in any comparable hardship to the Revenue. Accordingly, we condone the delay in filing the appeal before the learned CIT(A).

16.3 Having condoned the delay, we note that the learned CIT(A) dismissed the appeal as time-barred without examining the claim of deduction under section 80P of the Act on merits. In the interest of justice, we deem it appropriate to restore the matter to the file of the learned CIT(A) with a direction to admit the appeal and decide the issue afresh on merits, in accordance with law, after affording due opportunity of hearing to the assessee. Thus, the delay in filing the appeal is condoned, and the matter is remanded back to the learned CIT(A) for fresh adjudication. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in court on 26th day of August, 2025

Sd/-

(KESHAV DUBEY)

Judicial Member

Sd/-

(WASEEM AHMED)

Accountant Member

Bangalore

Dated, 26th August, 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