आयकर अपीलीय अधिकरण 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय अमिताभ शुक्ला, लेखासदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI HON'BLE AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos.1743 & 1744/Chny/2025
निर्धारण वर्ष /Assessment Years: 2013-14 & 2014-15

S.S. Rangasamy Raja, 124, Madasam Koil Street, Rajapalaam – 626 117. [TAN: CHES21695C]	**Vs.**	The Income Tax Officer, TDS Ward, Chennai.
(अपीलार्थी/**Appellant)**		**(**प्रत्यर्थी/**Respondent)**

अपीलार्थी की ओर से/ Appellant by	:	Shri Girish Kumar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R. Anitha, Addl. CIT
सुनवाई की तारीख/Date of Hearing	:	02.09.2025
घोषणा की तारीख /Date of Pronouncement	:	03.09.2025

आदेश / **O R D E R**

PER MANU KUMAR GIRI (Judicial Member):

The captioned appeals filed by the assessee are directed against order of the Ld. Commissioner of Income Tax (Appeal)/NFAC, Delhi, ['CIT(A)' in short] dated 14.05.2025 for Assessment Years 2013-14 and 2014-15.

2. The brief facts of the case are that the assessee filed appeal before the ld. CIT(A) against the order dated 16.11.2013 u/s.

200A/206CB of the Act for FYs 2012-13 and 2013-14 relevant to AYs 2013-14 and 2014-15. The ld.CIT(A) dismissed the both appeals in *limine* on account of enormous delay of 4120 & 4044 days (More than 12 years) in filing appeals.

3. Aggrieved, assessee is in appeal before us.

4. Before us, the ld. Counsel for assessee submitted that the appeal filed belatedly before the ld. CIT(A) may be condoned for the reasons stated in Column No.14 of Form No.35 read with Column No.2(c). He further contended that the ld. CIT(A) may be directed to condone the delay and decide the appeal on merits. The ld. DR relied upon the order of the ld. CIT(A) and pleaded for the dismissal of the appeal.

5. We have gone through the appeal record and submissions of the parties. The reasons given in Column No.14 of Form No.35 are as under:

> *The order u/s 200A charging a levy of Rs.1,14,357/- was received on 16.11.2013. The appeal ought to have filed on 16.12.2014. The appeal is filed belatedly after a delay of 4120 days as we were under the mistaken impression as the levy was before the amendment of sec 200A(1) i.e. before 01.06.2015 the levy be annulled.*

6. Recently, the Hon'ble Supreme Court of India in the case of *UOI Vs JAHANGIR BYRAMJI JEEJEEBHOY S.L.P.No.21096/2019 dated 03.04.2024 [2024] INSC 262* while disposing of the SLP held as under:

> *23. In such circumstances referred to above, we were left with no other option but to call upon the learned Attorney General to make submissions as to why we should look into only the merits of the matter and condone the* ***delay of 12 years and 158 days****.*
>
> *24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.*
>
> *25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.*
>
> *26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause*

assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

28. At this stage, we would like to quote few observations made by the High Court in its impugned order pointing towards lack of bona fides on the part of the appellants. The observations are as under:-

> *"9. A perusal of paragraph 4 extracted hereinabove shows that on oath, solemn statement is made that notice of Darkhast No.16 of 2014 for execution of the decree issued by the executing Court was received by the Department on 25.02.2019. As against this, in paragraph 3 of the additional affidavit dated 04.07.2019 made by Rajendra Rajaram Pawar, it is stated that the averments made in paragraph 4 as regards service of Darkhast on 25.02.2019 is factually incorrect. Notice of Darkhast No. 16 of 2014 was received by the defendants on 18.03.2016. The error in the application is out of inadvertence for which he tendered unconditional apology. It is further stated that inadvertent mistake on facts as to knowledge of execution proceedings was purely because of oversight in the light of possibilities of issuance of possession warrant by the executing court and requirement of expeditious urgency of moving before this Court to save the proceeding in litigation since 1981 which otherwise would have got frustrated. He stated that the same is nothing beyond human error.*
>
> *x x x x*
>
> *12. The assertions made in paragraph 4 are bereft of any particulars and are totally vague. In fact the solemn statement made in paragraph 4 that notice of Darkhast for execution of the decree issued by the executing Court was received by the Department on 25.02.2019, to put it mildly, is incorrect statement. In view of paragraph 3 of the additional affidavit dated 04.07.2019 made by Rajendra Rajaram Pawar, it is evident that notice of Darkhast was received by the defendants on 18.03.2016. It is material to note that no particulars are given as to when the Department sought legal opinion. There is also no explanation as to why Department did not instruct lawyer in the High Court to apply for restoration of the Petition and why the Department defended execution proceedings. It is worthwhile to note that execution proceedings were filed by the respondents only because Writ Petition was dismissed. If the Writ Petition was restored, automatically the execution proceedings would have been stayed by the executing Court. Instead of adopting appropriate proceedings, the defendants unnecessarily went on defending the execution proceedings. In paragraph 4(b) though it is stated that Department was regularly following up with its panel lawyer till 2003, this statement is also not substantiated by producing any document. Even if I accept that the Department was regularly following up with its panel*

lawyer till 2003, there is no explanation worth the name as to why the Department did not follow up the matter between 2003 and 2006 when the Petition was dismissed in default. That apart, equally, there is no explanation as to why no follow up action was taken by the officers between 2006 and 2016 when Department acquired knowledge about dismissal of Writ Petition on 18.03.2016.

13. It is no doubt true that while considering the application for condonation of delay, the expression 'sufficient cause' has to be liberally construed. It, however, does not mean that without making any sufficient cause, the Court will condone the delay regardless of the length of the delay.

In the present case, the delay is of 12 years and 158 days. A perusal of the application as also the additional affidavit hardly indicates any sufficient cause for condoning the unpardonable delay of 12 years and 158 days."

29. In Oriental Aroma Chemical Industries Limited v. Gujarat Industrial Development Corporation, (2010) 5 SCC 459, this Court rejected the application for condonation of delay of 4 years in filing an application to set aside an exparte decree on the ground that the explanation offered for condonation of delay is found to be not satisfied.

30. In Postmaster General and others v. Living Media India Limited, (2012) 3 SCC 563, this Court, while dismissing the application for condonation of delay of 427 days in filing the Special Leave Petition, held that condonation of delay is not an exception and it should not be used as an anticipated benefit for the government departments. In that case, this Court held that unless the Department has reasonable and acceptable reason for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process cannot be accepted. In Para Nos. 25, 26, 27, 28, and 29 respectively, this Court dealt with the scope of 'sufficient cause' and held as follows:

"25. We have already extracted the reasons as mentioned in the "better affidavit" sworn by Mr. Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in Office of the Chief Postmaster v. Living Media India Ltd. [(2009) 8 AD 201 (Del)] as 11-9-2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 8-1-2010 and the same was received by the Department on the very same day. There is no explanation for not applying for the certified copy of the impugned judgment on 11-9-2009 or at least within a reasonable time. The fact remains that the certified copy was applied for only on 8-1-2010 i.e. after a period of nearly four months.

26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

31. In the case of Lanka Venkateswarlu (D) by LRs v. State of Andhra Pradesh & others, (2011) 4 SCC 363, this Court made the following observations:

"20. In N. Balakrishnan, [(1998) 7 SCC 123] this Court again reiterated the principle that: (SCC p. 127, para 11) "11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that [the] parties do not resort to dilatory tactics, but seek their remedy promptly."

21 to 27.....

28. We are at a loss to fathom any logic or rationale, which could have impelled the High Court to condone the delay after holding the same to be unjustifiable. The concepts such as "liberal approach", "justice oriented approach", "substantial justice" cannot be employed to jettison

the substantial law of limitation. Especially, in cases where the court concludes that there is no justification for the delay. In our opinion, the approach adopted by the High Court tends to show the absence of judicial balance and restraint, which a Judge is required to maintain whilst adjudicating any lis between the parties. We are rather pained to notice that in this case, not being satisfied with the use of mere intemperate language, the High Court resorted to blatant sarcasms.

29. The use of unduly strong intemperate or extravagant language in a judgment has been repeatedly disapproved by this Court in a number of cases. Whilst considering applications for condonation of delay under Section 5 of the Limitation Act, the courts do not enjoy unlimited and unbridled discretionary powers. All discretionary powers, especially judicial powers, have to be exercised within reasonable bounds, known to the law. The discretion has to be exercised in a systematic manner informed by reason. Whims or fancies; prejudices or predilections cannot and should not form the basis of exercising discretionary powers."

32. In the case of Pundlik Jalam Patil (D) by LRs. v. Executive Engineer, Jalgaon Medium Project & others, (2008) 17 SCC 448, this Court held as follows:

"19. In Ajit Singh Thakur Singh v. State of Gujarat [(1981) 1 SCC 495 : 1981 SCC (Cri) 184] this Court observed: (SCC p. 497, para 6) "6. … it is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute sufficient cause." (emphasis supplied) This judgment squarely applies to the facts in hand.

x x x x

21. Shri Mohta, learned Senior Counsel relying on the decision of this Court in N. Balakrishnan v. M. Krishnamurthy [(1998) 7 SCC 123] submitted that length of delay is no matter and acceptability of explanation is the only criterion. It was submitted that if the explanation offered does not smack of mala fides or it is not put forth as a part of dilatory tactics, the court must show utmost consideration to the suitor. The very said decision upon which reliance has been placed holds that the law of limitation fixes a lifespan for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. The decision does not lay down that a lethargic litigant can leisurely choose his own time in preferring appeal or application as the case may be. On the other hand, in the said judgment it is said that court should not forget the opposite party altogether. It was observed: (SCC p. 128, para 11)

"11. … It is enshrined in the maxim interest reipublicae ut sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time."

22. In Ramlal v. Rewa Coalfields Ltd. [AIR 1962 SC 361] this Court held that: (AIR pp. 363-65)

"In construing Section 5 of the Limitation Act, it is relevant to bear in mind two important considerations. The first consideration is that the expiration of period of limitation prescribed for making an appeal gives rise to right in favour of the decree-holder to treat the decree as binding between the parties and this legal right which has accrued to the decree-holder by lapse of time should not be light-heartedly disturbed. The other consideration which cannot be ignored is that if sufficient cause of excusing delay is shown discretion is given to the court to condone the delay and admit the appeal. It is further necessary to emphasise that even if the sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage the diligence of the party or its bona fides may fall for consideration." (emphasis supplied)

23. On the facts and in the circumstances, we are of the opinion that the respondent beneficiary was not diligent in availing the remedy of appeal. The averments made in the application seeking condonation of delay in filing appeals do not show any acceptable cause much less sufficient cause to exercise courts' discretion in its favour."

33. In the case of Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Others, (2013) 12 SCC 649, this Court made the following observations: "21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.
21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.
21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.
21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.
21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.
21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.
21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.
21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.
22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:
22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.
22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.
22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.
22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."

34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.

36. For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs.

37. Pending application, if any, shall also stand disposed of accordingly."

7. The Hon'ble Supreme Court of India in the case of *Vedabhai alias Vaijayantabhai Baburao Patil Vs Shantaram Baburao Patil [2002] 122 Taxman 114* has made a distinction between delays that are trivial and cases where inordinately large delays had occurred. The cases of inordinate delay have to approach cautiously.

8. In the present case, as per dates chart filed by the assessee, the intimation order were passed on 16.11.2013 and 30.01.2014 for AYs 2013-14 and 2014-15 respectively, however, the assessee took more than 12 years to understand the legal position whether to file both the appeals before the ld. CIT(A). We are of the considered view that the reasons given by the assessee in Column 14 in Form 35 for condoning the delay in filing appeal before the ld.CIT(A) is not 'sufficient cause'. We also find that the assessee was non-serious and exhibited a lackadaisical approach. The case law relied on by the assessee *[1987 AIR 1353]* is not applicable to the facts of the case as we are not satisfied with the explanation of the assessee. Hence, respectively following the judgment of the Hon'ble Supreme Court of India in the

case of *UOI Vs JAHANGIR BYRAMJI JEEJEEBHOY* referred supra, we dismiss both the appeals of the assessee.

9. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced on 03rd day of September, 2025 at Chennai.

Sd/-	**Sd/-**
(अमिताभ शुक्ला)	**(मनु कुमार गिरि)**
(Amitabh Shukla)	**(Manu Kumar Giri)**
लेखा सदस्य /Accountant Member	**न्यायिक सदस्य / Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: *03rd September, 2025*.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai /Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF