

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI  
BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT AND  
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No.4189 & 4190/Mum/2025  
(Assessment Year: 2022-23)

Worthwhile Future Foundation, C 1401, Tower C. Beaumonde, Marathe Marg, Prabhadevi, Mumbai- 400025	Vs.	Income Tax Officer (Exemption) Ward- 2(4), Mumbai- 400020
<b>(Appellant)</b>	:	<b>(Respondent)</b>
PAN NO. AACCW 8528L		

<b>Appellant by</b>	:	Shri Nirav Shah,
<b>Respondent by</b>	:	Shri Arun Kanti Datta, CIT- DR
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Date of Hearing</b>	:	28.08.2025
<b>Date of Pronouncement</b>	:	04.09.2025

**ORDER**

Per Saktijit Dey, Vice President:

Captioned appeals by the assessee arise out of separate orders passed by learned CIT(Exemptions), Mumbai rejecting assessee’s application seeking registration under Section 12A r.w.s. 12AB of Income Tax Act, 1961 (in short the ‘Act’) and application seeking approval u/s. 80G of the Act.

2. At the outset, it needs to be put on record that ITA No. 4189/Mum/2025 has been filed with delay of 934 days, whereas, ITA No.4190/Mum/2025 has been filed

with a delay of 872 days. Thus, as could be seen, both the appeals have been filed with inordinate delay of more than 2 and half years and 2 years respectively.

3. We have considered rival contentions on condonation of delay.

4. Assessee has filed an application seeking condonation of delay supported by an affidavit. In sum and substance, the assessee has stated that the accounting, book keeping and Income tax compliance related services, from time to time, were being handled by M/s. Comp and Strat. Whereas, tax consulting and audit was being handled by Mr. Jay Dedhia (Chartered Accountant and Tax Consultant). The assessee has further submitted that the said consultants have not properly complied with the notices issued by the Income Tax Department authorities. Further, they have also neither communicated nor advised the assessee regarding filing of appeal against the rejection order passed by CIT(Exemption). It has further been submitted that since the existing consultant/s are pre-occupied in their other assignments/activities, the assessee has changed the consultant and approached another Chartered Accountant to advise them and on their advice immediately steps were taken for filing the appeals. To further vindicate its stand, the assessee has furnished letter dated 18.08.2025 from Shri Jay Dedhia, Chartered Accountant. In the said letter, the concerned Chartered Accountant has stated as under:

*“To,*

*The Director,  
Worthwhile Future Foundation*

*Subject: Clarification Regarding Appeal Filing*

*Dear Sir/Madam,*

*We had been associated with your Foundation from time to time in respect of auditing, tax consulting, and representation before the Income Tax Authorities, including compliances under section 12A and 80G of the Income Tax Act.*

*It may be noted that M/s Comp and Strat were primarily handling the related compliances except the Statutory Audit and the requisite details for filing the appeal were not made available in due time. By the time the matter was brought to us, the original statutory due date had already lapsed. Thereafter also, the information requested from time to time was received only at a later stage. Owing to these delays, and compounded by preoccupation with other professional commitments and unforeseen staff movement in our office, we were unable to prepare and file the appeal within the prescribed extended time limit.*

*We regret that the matter could not be pursued further despite our best efforts within the given constraints. We place on record our sincere regards for the Foundation and wish it every success in its future endeavours.*

*Yours faithfully, For ABNJ & Co.  
(Chartered Accountants)  
JAY JAYANT DEDHIA  
CA Jay Dedhia”*

5. Learned Departmental Representative has furnished objection dated 25.08.2025 vehemently opposing condonation of delay.
6. As could be seen from the letter of Shri Jay Dedhia, CA reproduced above, he has clearly and categorically stated that except statutory audit, he was not entrusted any other work. He has further submitted that the requisite details for filing the appeals were not made available to him in due time and by the time the matter was brought to his notice, the due date for filing the appeals already lapsed. He has further

stated that, even thereafter, requisite information sought from time to time was received at a later stage, which resulted in belated filing of the appeals.

7. At this stage, we must observe, Section 253 of the Act provides right to appeal both to the assessee as well as the Assessing Officer (AO) against certain orders, which are applicable before the Tribunal as per the said provision. Thus, right to appeal under the Act is a statutory right circumscribed by period of limitation as prescribed under sub-section (3) of Section 253 of the Act. The appeal has to be filed within a period of 60 days from the date of receipt of order appealed against. Though, sub-section (5) of Section 253 of the Act empowers the Tribunal to condone delay, however, such power cannot be exercised in a routine manner. Condonation of delay under Section 253(5) is neither mandatory nor automatic. Unless facts and materials are brought on record to establish that the delay in filing the appeal was due to genuine and reasonable cause, delay cannot be condoned. Parties before the court cannot claim a vested right for condonation of delay.

8. Though, we respectfully agree with the ratio laid down in the decisions cited before us by learned counsel for the assessee, however at the same time, we must observe that whether in a particular case the delay is to be condoned or not is a purely factual issue. Therefore, *de hors* the facts, the ratio laid down in a particular decision cannot be applied. In case of Office of the *Chief Post Master & Ors. Vs. Living Media India Ltd. & Anr.* 2012 SC 1506, the Hon'ble Supreme Court, while refusing to condone the delay, has observed that the law of limitation undoubtedly binds everybody including the Government. In case of *Union of India vs. Jahangir Byramji*

*Jeejeebhoy (D)* (SLP Civil No.21096 of 2019), the Hon'ble Supreme Court, in judgment dated 03.04.2024, has observed that delay should not be excluded as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. Therefore, while seeking condonation of delay, the party has to prove that it was reasonably diligent in prosecuting the matter.

9. In the facts of the present appeal, the reason for delay cited by the assessee to the effect that due to lapses on the part of the consultants the appeals could not be filed in time has been contradicted by one of the consultants named by the assessee. In so far as, the other consultant is concerned, there is no confirmation of the statement made by the assessee. In such a scenario, assessee's explanation regarding delay cannot be accepted on face value.

10. In view of aforesaid, we are not inclined to condone the delay as the assessee has failed to explain the delay satisfactorily with cogent evidence. Therefore, we decline to admit the appeals.

11. Having held so, From the facts and materials on record, it appears that the assessee was granted provisional registration u/s. 12AB of the Act. The rejection of assessee's application for registration u/s. 12AB of the Act appears to be purely for non-compliance with certain queries made by the competent authority.

12. In view of the aforesaid, the present order passed by us would not stand as a bar in case the assessee, if so advised, makes fresh applications seeking registration u/s. 12AB of the Act and approval u/s. 80G of the Act. In case, such applications are

filed, they have to be decided on their own merits by the competent authority. With the aforesaid observations appeals are disposed off.

13. In the result, both the appeals are dismissed.

*Order pronounced in the open court on 04/09/2025.*

Sd/-  
(Padmavathy S.)  
Accountant Member

Sd/-  
(Saktijit Dey)  
Vice President

Mumbai; Dated : 04/09/2025

Aks/-

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)  
ITAT, Mumbai