

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

**श्री दुव्वूरु आर एल रेड्डी, उपाध्यक्ष, एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष
BEFORE SHRI DUVVURU RL REDDY, HON'BLE VICE PRESIDENT
&**

SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आईटीए. नं. / ITA No. 414/VIZ/2025 (A.Y. 2016-17)

Kosuru Krishnaveni Flat No. 401, Jeevan Visakha Apartments MNTC Colony, Seethammadhara Visakhapatnam – 530013 [PAN:AOTPD2598D]	v.	Income Tax Officer - Ward – 3(3) Income Tax Office Infinity towers, Sankaramatam Road Visakhapatnam – 530016
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri GVN Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	14.08.2025
घोषणा की तारीख/Date of Pronouncement	:	28.08.2025

आदेश /ORDER

PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:

1. This appeal is filed by the assessee against order of Learned Commissioner of Income Tax (Appeals), National Faceless Appeal centre, Delhi [hereinafter in short "Ld.CIT(A)"] vide DIN & Order No. ITBA/NFAC/S/250/2024-25/1068352262(1) dated 05.09.2024 for the A.Y.2016-17 arising out of the order

passed under section 147 r.w.s. 144 of Income Tax Act, 1961 (in short 'Act') dated 23.02.2024.

2. At the outset, it is noticed from the appeal record that there is a delay of 212 days in filing the appeal before the Tribunal. Explaining the reasons for belated filing of the appeal, the Ld. Authorised Representative [hereinafter "Ld.AR"] drew our attention to the affidavit filed by the assessee along with a petition seeking for condonation of delay and read out the contents of the petition which is as under: -

"1. The order of the learned Commissioner of Income Tax (Appeals) in the case of the appellant was passed on 05.09.2024. As such, the appeal against this order ought to have been filed on or before 30.11.2024. However, the appellant could file the appeal only on 30.06.2025 resulting in a delay of 212 days in filing the appeal.

2. The appellant is a house wife and has two sons. Unfortunately, her elder son was affected with brain cancer and expired in the year 2015. The appellant faced a very tough time for almost 2 years in taking care of her ailing son. After the death of the son, the family could not live in the same house where the son expired and therefore they sold the house and purchased another house with the sale proceeds of the old house and also shifted to the new house immediately. All these incidents took place one after another in the year 2015. The appellant did not file the return of income for A.Y.2016-17 as there was no capital gain arising from the sale of the house.

3. The assessing officer reopened the case of the appellant for A.Y.2016-17 on the ground that the appellant purchased a house for Rs.62,43,000 and also invested Rs.9,00,000 in fixed deposits and did not file the return of income for the relevant year. The appellant was not aware of the notices issued by the assessing officer with old address and hence could not respond and explain her case. The assessing officer passed the assessment order on 23.02.2024 by making addition of Rs.71,43,000 u/s 69 of the Act towards unexplained investment.

4. The appellant was never exposed to income tax proceedings earlier and was not even a filer of income tax returns till recently. The appellant was under depression and lived a restricted life till 2020. During the covid period, her husband and younger son stayed at home due to restrictions on movement and at that time they motivated the appellant to come out of depression. With their encouragement, she revived her knowledge in

Carnatic music and started taking music classes to her neighborhood children. In this manner, she was making efforts to get out of the depression. The income of the appellant from the bank interests and from music classes exceeded the basic exemption limit for the first time for A.Y.2023-24 and therefore the appellant filed the return of income in March, 2024. At the time of filing the return of income, the appellant noticed that assessment order for A.Y.2016-17 was passed in her case on 23.02.2024. In the meanwhile, the appellant suffered from Pneumonia and therefore could not file the appeal immediately. She could file appeal against the assessment order on 02.05.2024 with a delay of 39 days. The appellant submitted a petition for condonation of delay along with medical certificate before the learned Commissioner of Income Tax (Appeals).

5. As stated above, the appellant was never exposed to income tax proceedings prior to filing the return of income for A.Y.2023-24. Moreover, the appellant was not stable both physically as well as mentally. As such, she could not keep track of the hearing notices issued by the learned Commissioner of Income Tax (Appeals) As there was no compliance from the appellant to the hearing notices, the learned Commissioner of Income Tax (Appeals) dismissed the appeal in limine stating that the appellant did not adduce sufficient cause for the delay of 39 days in filing the appeal. For the very same reasons stated above, the appellant was not aware of even the order passed by the learned Commissioner of Income Tax (Appeals).

Therefore, she could not file appeal against the order immediately.

6. The appellant received a call from the income tax officer in the third week of June, 2025 regarding the collection of demand raised for A.Y.2016-17. It was only at this point of time, the appellant came to know about the order of the learned Commissioner of Income Tax (Appeals). Without further loss of time, the appellant took necessary steps and filed the appeal before the hon'ble ITAT on 30.06.2025.

7. Thus, the delay of 212 days in filing the appeal was due to the reasons mentioned above which were beyond the control of the appellant. The delay is neither intentional nor deliberate. Therefore, the appellant prays the hon'ble ITAT to kindly condone the delay in filing the appeal and pass appropriate orders in the interest of rendering substantial justice.”

3. On perusal of the contents of the affidavit filed by the assessee as well as the submission of the Ld. AR, we find that the assessee is prevented by a reasonable and sufficient cause in filing the appeal beyond the prescribed time limit with a delay of 212 days. Therefore, we hereby condone the delay of 212 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits in the following paragraphs.

4. Ld. Authorised Representative [hereinafter in short “Ld.AR”], inviting our attention to the order of the Ld.CIT(A) submitted that the Ld.CIT(A) did not condone the delay of 39 days in filing the appeal stating that submissions are vague and dismissed the appeal without going into the merits of the case. Ld. AR submitted before us that Ld. CIT(A) dismissed the appeal of the assessee without condoning the delay in filing the appeal as no such sufficient cause is established. Further, Ld.AR submitted that the Ld.CIT(A) did not appreciate the submissions properly and without giving any reasons for not condoning the delay and except stating that submissions are vague, rejected the condonation petition. Ld.AR submitted that the delay may be condoned and the appeal be restored to the file of the Ld.CIT(A) for deciding on merits and pleaded that one more opportunity may be provided to the assessee in the interest of justice.

5. Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] strongly placed reliance on the order of the Ld.CIT(A) in rejecting the condonation petition. Ld. DR strongly opposed for condonation of delay.

6. We have heard both the sides and perused the material available on record. The reasons for delay in filing the appeal before the Ld. CIT(A) are reproduced below: -

“1. The assessment order u/s 147 r.w.s 144 r.w.s 144B of the Act was passed in the case of appellant on 23.02.2024. As such, the appeal against the order ought to have been filed on or before 24.03.2024. However, the appeal could be filed only on 02.05.2024 resulting in a delay of 39 days in filing the appeal.

2. *The appellant suffered from Pneumonia and was under treatment and bed rest as advised by the doctor during the period from 15.03.2024 to 25.04.2024 (copy of medical certificate is enclosed). The appellant could not attend to any other affairs during this period and hence the appeal could not be filed within the due date. As soon as the condition improved, the appellant took necessary steps and filed the appeal on 02.05.2024.*

3. *Thus, the delay in filing the appeal was due to the reasons explained above which were beyond the control of the appellant. The delay was neither intentional nor deliberate. Therefore, the appellant prays the learned Commissioner of Income Tax (Appeals) to kindly condone the said delay of 39 days in filing the appeal and to pass appropriate orders in the interests of rendering substantial justice.*

Inconvenience caused in the matter is regretted.”

7. We notice that the moot question to be adjudicated is with respect to condonation of delay. Broadly, we are of the view, that the Courts and the quasi-judicial bodies are empowered to condone the delay, if a litigant satisfies the Courts that there was sufficient reason for availing the remedy after the expiry of limitation. Such reasoning should be to the satisfaction of the Court. The expression “**sufficient cause or reasons**” as provided in sub-section (5) of section 253 of the Act is used in identical position in the Limitation Act 1963, and in CPC. Such expression has also been used in other sections of the Income Tax Act such as section 273, 274, etc. Keeping in mind, the authoritative pronouncement from Hon’ble Apex Court, it is admitted position that the words “**sufficient cause**” appearing in sub-section (5) of section 253 of the Act should receive a liberal construction so as to advance substantial justice. It must be remembered that in every case of delay, there can be some lapses on the part of the litigant concern. That alone is not enough to turn down the plea and to shut the doors against him, unless and until, it makes a mala-fide or a dilatory

statutory, the court must show utmost consideration to such litigant. Further the length of delay is immaterial, it is the acceptability of the explanation and that is the only criteria for condoning the delay.

8. In such a situation, no doubt filing of an appeal is a right granted under the statute to the assessee and is not an automatic privilege, therefore, the assessee is expected to be vigilant in adhering to the manner and mode in which the appeals are to be filed in terms of the relevant provisions of the Act. Nevertheless, a liberal approach has to be adopted by the appellate authorities, where delay has occurred for “**bona fide reasons**” on the part of the assessee or the Revenue in filing the appeals. In matters concerning the filing of appeals, in exercise of the statutory right, a refusal to condoned the delay can result in a meritorious matter being thrown out at the threshold, which may lead to miscarriage of justice. The judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

9. The Hon’ble Apex Court in a celebrated decision in **Collector, Land Acquisition v. Mst. Katiji& Ors. [167 ITR 471]** opined that when technical consideration and substantial justice are pitted against each other, the courts are expected to further the cause of substantial justice. This is for the reason that an opposing party, in a dispute, cannot have a vested right in injustice being done because of a non- deliberate delay. Therefore, it follows that while considering matters relating to the condonation of delay, judicious and liberal approach is to

be adopted. If “sufficient cause” is found to exist, which is bona-fide one, and not due to negligence of the assessee, the delay needs to be condoned in such cases. The expression ‘**sufficient cause**’ is adequately elastic to enable the courts to apply law in a meaningful manner, which sub-serves the end of justice- that being the life purpose of the existence of the institution of the courts. When substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred. This means that there should be no mala fide or dilatory tactics. Sufficient cause should receive liberal construction to advance substantial justice. The Hon’ble Apex Court in **Collector, Land Acquisition vs Mst. Katiji & Ors. (167 ITR 471)** observed as under:-

“3. The legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.”

10. In the light of the above judicial pronouncements and keeping in view the principles of natural justice, we are of the considered view that the *lis* between the parties be decided on merits and no person should be condemned unheard. Therefore, the delay on the part of the assessee in filing appeal before Ld.CIT(A) is condoned and the appeal is remanded back to the file of Ld.CIT(A) to decide the appeal filed by the assessee on merits. It is needless here to mention that

before passing the order of assessment, Ld. CIT(A) shall provide sufficient opportunity of hearing to the assessee. Before parting, we may make it clear that our decision to restore the matter back to the file of 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.

11. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 28th August, 2025.

Sd/-
(दुव्वूरु आर एल रेड्डी)
(DUVVURU RL REDDY)
उपाध्यक्ष / VICE PRESIDENT
Dated: 28.08.2025
Giridhar, Sr.PS

Sd/-
(एस बालाकृष्णन)
(S. BALAKRISHNAN)
लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Kosuru Krishnaveni**
Flat No. 401, Jeevan Visakha Apartments
MNTC Colony, Seethammadhara
Visakhapatnam – 530013
2. राजस्व/ The Revenue : **Income Tax Officer - Ward – 3(3)**
Income Tax Office
Infinity towers, Sankaramatam Road
Visakhapatnam – 530016
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam