

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER
AND
SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA Nos. 428, 429 & 430/RPR/2025
निर्धारण वर्ष / Assessment Years : 2011-12, 2015-16 & 2020-21

Alankar Alloys Private Limited
C/o. Subash Agrawal & Associates
Advocates, Siddha Gibson,
1, Gibson Lane, Suite-213,
2nd Floor, Kolkata-700 069
PAN: AAFCA9127J

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Central Circle-2, Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None (Adjournment Application)
Revenue by : Shri Saad Kidwai, CIT-DR

सुनवाई की तारीख / Date of Hearing : 16.09.2025

घोषणा की तारीख / Date of Pronouncement : 17.09.2025

आदेश / ORDER**PER BENCH:**

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, dated 30.08.2024, 12.09.2024 and 12.02.2025 for the assessment years 2011-12, 2015-16 & 2020-21 as per the grounds of appeal on record.

2. At the time of hearing none appeared for the assessee. However, an adjournment application has been filed which is rejected. The matters were heard after recording the submissions of the Ld. CIT-DR and on examination of the material available on record.

3. At the very outset, it is noted that the captioned appeals are time barred by 253, 240 & 88 days, respectively. Elaborating the reasons leading to the impugned delay, the assessee has filed condonation petitions a/w. affidavits dated 09.07.2025. For the sake of clarity, the relevant contents of the affidavit filed by the assessee in ITA No.428/RPR/2025 for A.Y.2011-12 are extracted as follows:

“4. That the accountant of the assessee company was on leave during the relevant period due to his ill health and as such, the notices of hearing issued in August, 2024 could not be complied with. Earlier notice dated 07.06.2022 could not be attended to due to covid pandemic.

5. That later on, on or around last week of June 2025 when I enquired the status of the appeal from my accountant and

thereupon the said order was located in the Income Tax Portal which was already passed on 30.08.2024.

6. That then I immediately contacted Advocate Subash Agarwal of 1, Gibson Lane, Kolkata 700069 for filing an appeal before the Hon'ble Tribunal and sent him all the relevant documents.

7. That the office of the said counsel prepared the appeal and finally the same was filed on 10.07.2025.

8. I give an undertaking that proper compliance shall be made from our end in case the matter is restored back to the file of lower authorities.”

In so far the delay involved in the remaining appeals i.e. ITA No. 429/RPR/2025 & ITA No.430/RPR/2025 for A.Ys.2015-16 & 2020-2021, the assessee submitted as follows: (similarly worded)

“4. That the accountant of the assessee company was on leave during the relevant period due to his ill health and as such, the notices of hearing issued in August-Sept. 2024 could not be complied with.

5. That later on, on or around last week of June 2025 when I enquired the status of the appeal from my accountant and thereupon the said order was located in the Income Tax Portal which was already passed on 12.09.2024.

6. That then I immediately contacted Advocate Subash Agarwal of 1, Gibson Lane, Kolkata 700069 for filing an appeal before the Hon'ble Tribunal and sent him all the relevant documents.

7. That the office of the said counsel prepared the appeal and finally the same was filed on 10.07.2025.

8. I give an undertaking that proper compliance shall be made from our end in case the matter is restored back to the file of lower authorities.”

4. The Ld. CIT-DR submitted that since the delay involved in the captioned appeals are inordinate therefore, the same may not be condoned.

5. We have examined the contents of the condonation application and find that the reasons for delay cannot be attributed to any malafide or deliberate conduct of the assessee, if any. Also there is no evidence regarding any deliberate or malafide conduct of the assessee as regards the delay involved in filing of the present appeal before the Tribunal and whatever delay has been caused, was absolutely circumstantial beyond any direct control of bonafide assessee. That as per the direction of the Hon'ble Supreme Court the delay which is beyond 365 days will be termed as inordinate delay and anything below that is ordinate delay. However, the law of limitation is to be construed strictly and whether it is ordinate or inordinate, delay has to be well explained. At the same time in these issues a liberal and judicious approach must be adopted also. In so far the delay is concerned, taking guidance from the judicial pronouncements viz. (i) **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025**, (ii) **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025**, and (iii) **Inder Singh Vs. the State**

of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025, we condone the delay of 253, 240 & 88 days, respectively involved in the captioned appeals.

6. At the very outset, it is noted that as per Para 3 of the impugned order, the Ld.CIT(Appeals)/NFAC vide an ex-parte order had dismissed the appeal of the assessee due to non-compliance by the assessee. For the sake of clarity, the Para 3 of the Ld.CIT(Appeals)/NFAC's order in ITA No.428/RPR/2025 for A.Y.2011-12 is culled out as follows:

“3. The appeal was fixed for hearing on 26.02.2022 & 16.08.2024. Again, the appeal was fixed for hearing on 27.08.2024 vide this office notice dt.21.08.2024, When none attended nor any request for adjournment were received. It is quite evident from the chronology of event that despite several opportunities being granted from time to time, there has been absolutely no compliance on part of the appellant to give detailed explanation regarding ground of appeal taken for the year under consideration. This clearly shows that the appellant is not keen to pursue the above-mentioned appeal.”

In so far the appeals filed by the assessee in ITA Nos.429 & 430/RPR/2025 for A.Ys. 2015-16 & 2020-21, similarly it is evident from Para 3 of the respective orders of the Ld. CIT(Appeals)/NFAC that since there was no compliance by the assessee, therefore, the Ld. CIT(Appeals)/NFAC dismissed the appeal vide an ex-parte order. For the sake of brevity, the same are only referred to and not being extracted.

7. The Ld. CIT-DR has fairly conceded that the matter may be adjudicated denovo on merits before the first appellate authority providing one final opportunity to the assessee.

8. We have carefully considered the contents in the documents/material available on record. As per the aforesaid examination of the entire spectrum of the matter in the interest of natural justice, we deem it fit and proper to provide one final opportunity to the assessee to represent his case on merits before the Ld. CIT(Appeals)/NFAC.

9. On a perusal of the order of the Ld.CIT(Appeals)/NFAC, it is observed that the Ld.CIT(Appeals)/NFAC dismissed the appeal of the assessee in limine for non-compliance without dealing with the merits of the case. In our considered view, once an appeal is preferred before the CIT(Appeals), it becomes obligatory on his part to dispose off the same on merit and it is not open for him to summarily dismiss the appeal on account of non-prosecution of the same by the assessee. In fact, a perusal of Sec.251(1)(a) and (b), as well as the "Explanation" to Sec.251(2) of the Act reveals that the CIT(Appeals)/NFAC remains under a statutory obligation to apply his mind to all the issues which arises from the impugned order before him. As per the mandate of law the CIT(Appeals)/NFAC is not vested with any power to summarily dismiss the appeal for non-prosecution. The aforesaid view is fortified by the judgment

of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**. In the aforementioned case the Hon'ble High Court had observed as under:

"8. From the aforesaid provisions, 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 AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 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. Sec. 251(1)(a) and (h) 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-s. (2) of [s. 251](#) of the Act also makes it clear 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 [s. 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 w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO 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 clear from the [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 251(2) of the Act which requires the CIT(A) to apply his mind to all 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."

10. Respectfully following the aforesaid order, we set-aside the respective orders of the Ld. CIT(Appeals)/NFAC and remand the matters back to its

file for denovo adjudication while complying with the principles of natural justice as per similar terms. At the same time, it is directed that this being the final opportunity, the assessee shall duly comply with the hearing notices from the Ld.CIT(Appeals)/NFAC. The Ld.CIT(Appeal)/NFAC shall accordingly pass order in terms with Section 250(4) & (6) of the Act.

11. As per the aforesaid terms, the grounds of appeal raised by the assessee stands allowed for statistical purposes.

12. In the result, all the captioned appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 17th day of September, 2025.

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

Sd/-
G. D. PADMAHSHALI
(ACCOUNTANT MEMBER)

रायपुर/RAIPUR ; दिनांक / Dated : 17th September, 2025.

SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.