

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 No. 533/RPR/2025
निर्धारण वर्ष / Assessment Year : 2018-19

Resham Gramodyog Sadan
Village : Umreli Main Road,
Champa, Janjgir-Champa,
Korba-495 677
PAN: AACAR9348D

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward-1, Korba (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None (Adjournment Petition)
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 19.09.2025
घोषणा की तारीख / Date of Pronouncement : 19.09.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 26.08.2024 for the assessment year 2018-19 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 matter was heard after recording the submissions of the Ld. Sr. DR and on examination of the material available on record.

3. At the very outset, it is noted that the captioned appeal is time barred by 308 days. Elaborating the reasons leading to the impugned delay, the assessee has filed condonation petition a/w. affidavit dated 20.08.2025. For the sake of clarity, the relevant contents of the condonation application filed by the assessee are extracted as follows:

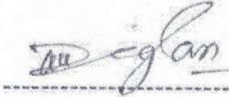
I, **Krishna kumar Dewangan**, S/o Late Shri Sahettar Lal Dewangan, aged about 63 years, resident of **Kurda, Janjgir - Champa (C.G.)**, do hereby solemnly affirm and declare as under:

1. That I am a secretary of Resham Gramodyog Sadan, which is established as on 04-february-1993 as a registered societies (non-government) in chhattisgarh at Post -Umreli, Distt. Korba (C.G.). The members are bunker/weavers from village side and not familiar with computer and mail ID.
2. That an **appellate order u/s 250** of the Income Tax Act, 1961 for the **Assessment Year 2018-19** was sent on our e-mail ID which was not seen by me due to lack of knowledge and not getting assistance from our staff who knows the handling of mail etc.
3. That due to an inadvertent mistake by my office staff, who is dealing with mail ID, the said appellate order was inadvertently remained unnoticed /overlooked, and as such, did not come to my knowledge within the stipulated period for filing the appeal.
4. That as a result of the above circumstances, the appeal could not be filed within the prescribed time limit.
5. That the present affidavit is being submitted before the Hon'ble **Income Tax Appellate Tribunal (ITAT) Raipur Bench, Raipur**, in support of the request for condonation of delay in filing the appeal.

Place: CHAMPA

Date :--19/8/25

20 AUG 2025



4. The Ld. Sr. DR conceded the contents of the "affidavit" and submitted very fairly that in the given state of affairs there are several assesseees who are still not in sync with the technical developments in so far as the working of the department is concerned.

5. Considering the aforesaid facts, we are of the considered view that as per reasons given in the affidavit, the genuineness of the difficulties faced by many assesseees that has been brought on record and 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. 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 308 days involved in the captioned appeal.

6. At the very outset, it is noted that there was delay of 1434 days in filing the appeal before the Ld. CIT(Appeals)/NFAC and the Ld. CIT(Appeals)/NFAC had dismissed the appeal of the assessee on account of delay itself. The submission of the assessee as regards the delay of 1434 days before the Ld. CIT(Appeals)/NFAC is extracted as follows:

In the above matter, most humbly and respectfully, I have to submit before your honour as under :-

- 1/ That the CPC Bengaluru, has issued intimation u/s 143(1) of the I.T. Act, 1961 for A.Y. 2018-19 on 17.10.2019 assessing the income at Rs. 2,94,50,272/- as against income returned of Rs. NIL/- raising a demand of Rs. 1,34,33,514/-.
- 2/ That the appeal has been filed against the aforesaid order on 21.10.2023, whereas the same was due on 17.11.2019, resulting in delay of 1434 days.
- 3/ The reason for delay in filing of First Appeal, because the assessee has filed a rectification application before the Income Tax Officer, Exemption Ward Bilaspur and waiting for the rectification order u/s 154.
- 4/ That the assessee has requested to give rebate of Rs. 2,57,66,963/- u/s 10(23B). In response to the application the Id. Income Tax Officer has passed rectification order u/s 154 on 08.09.2023 stating that the matter is debatable, hence the same cannot be rectified u/s 154.
- 5/ That there is a reasonable cause for delay in filing of Appeal already mentioned in Para '3 & 4' above.
- 6/ That your honour is empowered u/s 249(3) of the I.T. Act, 1961 to condone the delay in filing appeal.

PRAYER

Therefore, most humbly and respectfully it is prayed to your honour that the delay of 1434 days in filing the appeal may kindly be condoned and the appeal be kindly admitted and obliged.

7. The Ld. Sr.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. On perusal of the reasons, it is noticed that the majority of the period regarding the said delay is covered with COVID pandemic. As regarding the remaining period of delay, the assessee submitted that they had filed a rectification application u/s. 154 of the Income Tax Act, 1961 (for short 'the Act') and the assessee was waiting for the outcome of such rectification application. However, the said rectification application has been rejected vide order dated 08.09.2023 and the appeal was filed by the assessee on 21.10.2023 i.e. within one month, hence, the bona-fideness of the assessee could not be doubted. There is no direct evidence furnished by the revenue regarding any malafide or deliberate conduct of the assessee. The reasonableness of the reasons for condonation of delay as per Section 249(3) of the Act before the Ld. CIT(Appeals)/NFAC had duly been fulfilled by the assessee. Hence, such delay is condoned.

9. Coming to the merits of the case, we find that the Ld. CIT(Appeals)/NFAC had dismissed the appeal on account of delay itself without dealing with the merits of the case. Accordingly, 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. 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 delay itself without going into the merits of the case. 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 delay itself. 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. Further, in these facts and circumstance, in the recent judgment of the **Hon’ble Supreme Court** rendered in **Raheem Shah & ANR Vs. Govind Singh & Ors (Civil Appeal No.4628 of 2023)**, we are heedful to state that, while dealing with tax litigation, the Ld. CIT(Appeals)/NFAC being a quasi-judicial authority was expected to adopt justice oriented approach rather resorting to iron-cast technical one.

11. Respectfully following the aforesaid judgments, we condone the delay and set-aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to its file for denovo adjudication while complying with the principles of natural justice. 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.

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

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

Order pronounced in the open court on 19th day of September, 2025.

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

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 19th 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,

// True Copy //

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