

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No. 235/Agr/2025
Assessment Year: 2018-19

Maya Shikshan Pashishan Sansthan, C/o Prakash Textiles, Mendu Road, Hathras (UP).	Vs.	Income-tax Officer, Ward 4(3)(4), Hathras.
PAN :AASFM3134F		
(Appellant)		(Respondent)

Assessee by	Sh. Deepak Singh, Advocate
Department by	Sh. Anil Kumar, Sr. DR

Date of hearing	21.08.2025
Date of pronouncement	26.09.2025

ORDER

PER : SUNIL KUMAR SINGH, JUDICIAL MEMBER:

This appeal has been preferred by assessee against the impugned order dated 13.03.2025 passed in Appeal No. ADDL/JCIT(A)-2 NAGPUR/10001/2017-18 by the Ld. Commissioner of Income-tax (Appeals), NFAC, Delhi u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the assessment year 2018-19, wherein the Id. CIT(Appeals) has dismissed assessee's first appeal as barred by limitation, having been filed by a delay of 3 years 5 months.

2. Brief facts state that the appellant is running a non-profit educational institution, namely, higher secondary school. Gross receipt during the year under consideration was Rs.98,58,650/- and gross expenditure was Rs.91,57,348/-, leaving a surplus of Rs.7,01,302/-. Accordingly, ITR was filed on the net income of Rs.7,01,300/- . The return was processed u/s. 143(1) of the Act by the CPC, wherein entire expenses amounting to Rs.91,57,348/- were disallowed and tax was imposed on the entire gross receipts vide order dated 31.01.2020 u/s. 143(1) of the Act.

3. Aggrieved assessee preferred an appeal before learned CIT(Appeals), who dismissed assessee's first appeal in limine, being beyond the period of limitation as provided u/s. 249(2) of the Act.

4. This second appeal has been filed on the ground, with others on merit, that the Id. CIT(Appeals) has erred in not issuing notice before deciding the delay, hence violated the principles of natural justice.

5. Perused the records. Heard learned representative for assessee and learned DR for revenue.

6. Learned AR for the assessee has submitted that this case is covered by the order dated 24.06.2025 passed in assessee's own case by this bench in ITA No. 559/Agr/2024 for A.Y. 2019-20. AR, thus, prays to set aside the impugned order and allow assessee's appeal.

7. Learned DR has submitted that assessee's first appeal in the present case was dismissed in limine as barred by limitation, whereas the referred case was decided by Ld. CIT(Appeals) on merit. Ld. DR, thus, submitted that the fact situation in two cases is different and supported the impugned order.

8. Perusal of the record shows that the present appeal is in consequence of the impugned order dated 13.03.2025 passed by learned CIT(Appeals), wherein Ld. CIT(Appeals) has dismissed assessee's first appeal in limine, being beyond the period of 30 days as provided u/s. 249(2) of the Act, whereas the Tribunal has passed order dated 24.06.2025 in ITA No. 559/Agr/2024 against the order passed by the first appellate authority on merit. It means that the first appeal in the referred case was filed within 30 days in accordance with section 249(2) of the Act and the order was passed on merit. The law on the subject is well settled that unless the delay is condoned, the appeal does not come into existence legally, and in such absence, the court is wholly without jurisdiction to hear or decide the same on merit.

9. Hon'ble Supreme Court in Union of India & Anr. v. Jahangir Byramji Jeejeebhoy (D), 2024 SCC online SC 489, has observed 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, that the length of delay is a relevant matter, which the court must take into consideration while considering whether the delay should be condoned or not. The Hon'ble Apex Court has been pleased to hold that while considering the plea for condonation of delay, the court must not start with merits of the main matter. However, 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.

10. Thus, the issue of condonation of delay in the proceedings has to be decided at the first instance before delving into the merits of the case. However, if the delay is condoned, there is no bar on the courts to proceed with the case and decide the same on merits on the very day. In the same manner, if the prayer for condonation of delay is rejected, the proceedings will automatically fail. It is, thus, settled that without condoning the delay in filing the appeal, the appellate authority lacks jurisdiction to entertain such time barred appeals. Hence, in the instant case, where this Tribunal is dealing with the appeal against the impugned order of dismissal of assessee's first appeal in limine, being beyond the period of limitation, the assessee cannot claim any benefit on merit at the second appellate stage, on the basis of an order obtained from this Tribunal against the dismissal of assessee's first appeal on

merit unless the opposition of the other side is equally balanced, which is missing in the present case.

11. Now, coming to the predominant dispute in the present appeal, it transpires from the perusal of record that the first appeal was filed on 29.06.2023 against the assessment order dated 31.01.2020 by a delay of about three years and five months. The assessee failed to make any mention in respect of the fact related to the delay, in form-35. Assessee also failed to file any application/affidavit before the first appellate authority to substantiate and show the sufficient cause for condoning the delay. This shows the assessee's perception of delay as a non-serious matter and gives an impression of assessee's lackadaisical propensity, and be curbed.

12. We take judicial notice of the fact that in the instant case, most of the duration of delay caused in filing appeal before the first appellate authority overlaps the period of spread of global pandemic COVID-19. This fact has also been taken care of by Hon'ble Supreme Court in Misc. app. No. 21/2022 in Misc. app No. 665/2021 in suo-moto W.P(c) No. 3/2020 in civil original jurisdiction and in re-cognizance of extension of limitation with miscellaneous application No. 29/2022, in miscellaneous application No. 655/2021 in suo-moto petition(c) no. 03/2020 and vide para 5(1) of its order dated 10.01.2022 directed that its order dated

23.03.2020 is restored and in continuation of the subsequent order dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings after exclusion of the aforesaid duration.

13. In the instant case, the period of delay from 15.03.2020 to 28.02.2022 before the first appellate authority stands excluded in view of the aforesaid order passed by Hon'ble Apex Court. Accordingly, out of three years and five months' delay, about two years' of delay stands excluded in view of the aforesaid order of the Hon'ble Supreme Court.

14. As far as the remaining delay of about one year and five months is concerned, it is well established principle of law that the substantial justice cannot be denied on technical aberrations. In an adversial justice system like ours, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Justice is the goal of jurisprudence. Any interpretation which eludes or frustrates the recipient of justice can not to be followed. In this view of the matter, the tribunal has the trappings of the court and has incidental and implied powers. In order to prevent any further delay in the legal proceedings, we deem it just, proper and in the interest of justice, to condone the delay in filing

first appeal before the first appellate authority. We order accordingly. The matter is restored back to the file of learned CIT(Appeals) for adjudication on merit afresh. We further observe that the Id. CIT(Appeals), while deciding the case on merits, be guided by the referred order dated 24.06.2025 passed by this bench in ITA No. 559/Agr/2024 (A.Y. 2019-20) in assessee's own case. Needless to say that learned CIT(Appeals) shall ensure the observance of the principles of natural justice. The Impugned order dated 13.03.2025 is, accordingly set aside.

15. In the result, appeal is allowed for statistical purposes.

Order pronounced in the open court on 26.09.2025.

**Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

Dated: 26.09.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra