

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "B", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No.3271/M/2025
Assessment Year: 2011-12**

M/s. National Welfare Foundation, C/o Glassex (India) Pvt. Ltd., Gokul Arcade, B-Wing, Opp. Garware Polyster, Vile Parle (East), Mumbai - 400 057 PAN: AAATN4022F	Vs.	CPC/ITO Exemption, Ward 2(1), Income Tax Office, Peddar Road, Tardeo, Mumbai - 400026
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Prakash Jhunjunwala, Ld. C.A.
Revenue by : Shri Letaqat Ali Aafaqui, Ld. Sr. A.R

Date of Hearing : 01.07.2025
Date of Pronouncement : 29.09.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 10.03.2025, impugned herein, passed by the Ld. Addl./Joint Commissioner of Income Tax (Appeals) (in short "Ld. Addl./Joint Commissioner") under section 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2011-12.

2. The Assessee's Counsel during the course of argument of this appeal has claimed that the CPC vide intimation/order dated 11.11.2024 and email dated 26.12.2024 reiterated the demand of Rs.63,58,490/- raised vide computation sheet 23.03.2014. The Assessee thus challenged the said intimation/orders 11.11.2024 and email dated 26.12.2024 by filing first appeal on dated 02.01.2025 before the Ld. Commissioner, who vide impugned order dismissed the appeal of the Assessee in limine being barred by limitation u/s 249(2) of the Act r.w.s. 5 of the Limitation Act, by observing and holding as under:

"5. Decision: -

5.1 On perusal of all the grounds of appeal, here it is found that, the appellant has e-filed for appeal on 02.01.2025 for the AY 2011-12 while the order u/s 143(1) was given on 29.03.2014. As there is clear delay of 3900 days (almost 10 years), the condonation has to be granted as per the law and precedence.

Under section 249(3) of the Act, the appellate authority may, on good and sufficient reason for the delay being shown, admit an appeal after the expiry of the period of limitation.

5.3 The exercise of discretion in condonation of delay in matters of limitation, such as in the present case u/s 249(3) of the Income Tax Act, 1961 has to be carried out within the meaning of "Sufficient Cause" as envisaged in Section 5 of Limitation Act. Hence, the general rule of law of limitation is that an extension shall not be granted under Section 5 if there is no sufficient cause or cogent ground for the condonation of delay, the onus of proving which lies on the appellant/applicant as clearly laid down in the judicial pronouncements by the Highest Courts of Law.

In this connection, it is very apt to refer to the recent decision of Hon'ble Supreme Court in the case of Pathapati Subba Reddy (died) by Lrs. & Ors vs. The Special Deputy Collector (LA) in Special Leave Petition (Civil) No. 31248/2018, dated 08.04.2024 wherein the Hon'ble Supreme Court after making reference to the decisions in the case of (1) Bhag Mal alias Ram Bux and Ors. vs. Munshi (Dead) by LRs. and Ors. (2) Collector, Land Acquisition, Anantnag and Ors. vs. Katiji and Ors. (3) Ramlal, Motilal and Chhotelal vs. Rewa Coalfields Ltd. (4) Maqbul Ahmad and Ors. vs. Onkar Pratap Narain Singh and Ors. (5) Brijesh Kumar and

Ors. vs. State of Haryana and Ors, (6) Lanka Venkateswarlu vs. State of Andhra Pradesh & Ors. (7) State of Jharkhand & Ors, vs. Ashok Kumar Chokhani & Ors, (8) Basawaraj and Anr. vs. Special Land Acquisition Officer, had evolved the following guidelines for condonation of delay:

“26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(1) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself.

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally:

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act,

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence:

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal,

(vii) Merits of the case are not required to be considered in condoning the delay and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision

27 It is in the light of the above legal position that now we have to test whether the inordinate delay in filing the proposed appeal ought to be condoned or not in this case"

5.4 Based on above pronouncement, it is important to go through the submissions of the assessee to ascertain whether the delay is attributable to sufficient cause or it is case where in there is deliberate inaction or negligence on part of the assessee.

The facts of the appellant are that ROI was filed for AY 2011-12 which was processed and demand notice served on assessee on 29.03.2014. Aggrieved with the order, rectification was filed with a delay of 2 years on 06.05.2016 and then there was no action by the assessee. The assessee neither did exercise due diligence to follow up his rectification application nor acted upon to obtain concerned order if at all passed. Thereafter, assessee reportedly received a letter on 05.01.2023 wherein demand of 2016-17,17-18 and 20-21 was alone mentioned based on which assessee assumed that order under appeal stood rectified. Interestingly, there was no action on behalf of the appellant to ensure that 2011-12 was indeed rectified.

The only reason the assessee has cited is as below

3. The appellant filed the rectification letter to the CIT(Exemption) to rectify the mistake and cancel the demand as on 06 05 2016 till date there is no response however as on 05.01.2023 the appellant received a issue letter regarding outstanding arrears in case of appellant for AY 2016-17 AY 2017-18 and A. Y 2020-21 The appellant submitted reply on 07 01.2023

Therefore, we respectfully submit that as per issue letter dated 05.01 2023 no demand was outstanding for AY 2011-12. Hence the appellant was in thought that the demand had been deleted for AY. 2011-12

Recently, the appellant received the Hearing notice u/s 250 of the Act for AY 2017-18. The appellant logged in the income Tax portal to reply the same. Then the appellant came to know about the said liability for A.Y. 2011-12. And now the appellant decided the file the appeal against the demand.

The appellant has been regularly filing returns but has chosen not to take any action with respect to pending matter and there is no detail as to recent past wherein the demand was identified by the appellant to take action

As is clear from the timeline presented by the assessee there have been multiple instances of lapses and deliberate inaction in

seeking legal remedy. There was a deep slumber from which the appellant was awoken not before 9 years from 2016 to 2025. This inordinate delay and negligence in seeking legal advice cannot be termed as good and sufficient cause for condonation of delay, Further, it is seen that the appellant has not even been prompt in filing 154 application, which was filed after gap of 2 years and the same has neither been pursued nor followed by seeking appropriate legal aid.

It is pertinent to note that the delay may be condoned and the appeal may be admitted u/s.249(3) only if the appellant could successfully demonstrate that it had sufficient cause for not presenting the appeal within the period of 30 days.

As already discussed above, the assessee has slept over the precious time for seeking the remedy. The law of limitation is found upon the maxims "Interest Reipublice Ut Sit FinisLitium" that litigation must come to an end in the interest of society as a whole, and "vigilantibus non dormientibus Jara subveniunt" that the law assists those that are vigilant with their rights, and not those that sleep thereupon. The law of limitation in India identifies the need for limiting litigation by striking a balance between the interests of the state and the litigant.

5.5 It is important to quote the decision of ITAT Pune Tribunal in the case of Navchaitanya Nagari Sahakari Patsanstha Ltd for Ay 2018-19 in ITA no 884/PUN/2024 dated 06.08.2024 wherein denial of condonation by the JCIT(A) has been upheld by the bench with following remarks

"8. In view of the above legal position, we now proceed to examine the facts of the case in order to determine whether there is sufficient and reasonable cause in not filing appeal before the CIT(A) within the prescribed time. The explanation that the appellant society had no knowledge of the intimation u/s 143(1) issued on 09.08.2019 till the processing of the refund for the A.Y. 2022-23 is difficult to be believed, as it cannot be presumed that a professional like a Chartered Accountant is not in the habit of checking the e-mails on regular basis. Moreover, the CPC also sent the intimation on Mobile number through SMS. These facts only show that the appellant society is not diligent in pursuing the remedy available under law. The law laid down by the Hon'ble Supreme Court in the case of Collector of Land Acquisition, Anantnag and Anr Vs. MST Katiji & Ors (supra) had been diluted by the Hon'ble Apex Court in the case of Pathapati Subba Reddy (died) by Lrs. & Ors vs. The Special Deputy Collector (LA) (supra) wherein it is held that while considering the petition for condonation of delay, the merits of the case are not required to be considered in condoning the delay Therefore, there

is apparently no diligence on the part of the appellant society in pursuing the remedy. In our considered opinion, the Addl./JCIT(A) is justified in refusing to condone the delay in filing the appeal. Thus, the appeal filed by the appellant society is devoid of any merit, accordingly stands dismissed."

5.6 The Single Judge bench. of the Hon'ble Madras HC. while exercising writ Jurisdiction in Kathiravan Pipes Pvt. Ltd, v, CESTAT, 2007 [5] STR \$ (Mad.) has observed that the period of limitation prescribed is not for destruction of a statutory right but only to give finality without protracting the matter endlessly. In the present case, the appellant has not adduced any reasonable cause which prevented it from filing the appeal within the 30 days' time limit even thereafter for more than 700 days. Unless and until it is demonstrated that there was sufficient cause that prevented the appellant from exercising its legal remedy of filing appeal within that prescribed period of 30 days, the delay thereafter cannot be condoned without there being compelling grounds as advocated by the Hon'ble Courts, which is also discussed below.

5.7 In the case of PerumonBhagvathy Devaswom, Perinadu Village v. Bhargavi Amma (Dead) by LRs, (2008)8 SCC-321, the Hon'ble SC had enunciated certain principles in which are applicable while considering applications for condonation of delay under Section 5 which may be summarized as follows

The words "sufficient cause", as appearing in Section 5 of Limitation Act, should receive a liberal construction when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the applicant/appellant, in order to advance substantial justice. The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case.

The decisive, factor in condonation of delay is not the length of delay but sufficiency of a satisfactory explanation.

The degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. For example, court's view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The court's view applications relating to lawyer's lapses more leniently than applications relating to litigant's lapses.

Want of 'diligence' or 'inaction' can be attributed to an applicant/appellant only when something, required to be done by

him, is not done. When nothing is required to be done, courts do not expect the applicant/appellant to be diligent. Where an appeal is admitted by the High Court and is not expected to be listed for final hearing for a few years, an appellant is not expected to visit the court regularly to ascertain the current position but await information from his counsel about the listing of the appeal.

5.8 To quote their lordships' decision verbatim in the case cited supra -

"13.... The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words "sufficient cause" in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant." (emphasis supplied)".

5.9 The aforesaid view was reiterated in the case of Balwant Singh (Dead). v. Jagdish Singh, (2010) 8 SCC 685, where in the Court held that:

"25. We may state that even if the term "sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of "reasonableness" as it is understood in its general connotation.

26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

5.10 *The Courts in the abovementioned cases, highlighted upon the importance introducing the concept of "reasonableness" while giving the clause "sufficient cause" a liberal interpretation. In furtherance of the same, the Courts has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate as it might accrue to the prejudice of the rights of the other party. In such cases, where there exists inordinate delay and the same is attributable to the party's inaction and negligence, the Courts have to take a strict approach so as to protect the substantial rights of the parties.*

5.11 *The Division bench of the Hon'ble Bombay HC in Ornate Traders Private Limited V. The Income Tax Officer, Mumbai emphasized the need for reasonableness and hence, the actions which can be condoned by the court should fall within the scope of normal human conduct or normal conduct of a litigant. The Hon'ble Bombay HC further observed that while Section 5 of the Limitation Act is being interpreted liberally, it cannot be so liberally that it is without any justification, since condonation of delay in a mechanical or routine manner will jeopardize the legislative intent behind Section 5.*

5.12 *The Hon'ble SC in the case of Shiv Dass v. Union of India (UOI) and Ors., AIR 2007 SC 1330 held that the High Courts, while exercising their discretionary powers under Article 226, should consider delay or laches and, refuse to invoke its extraordinary powers if it is found that the applicant had neglected/omitted to assert its rights in a timely manner, however, this discretion has to be exercised judicially and reasonably.*

5.13 *In the case of University of Delhi Vs Union of India & Ors. In Civil Appeal No. 9488 of 2019 vide Order dated 17/12/2019. the Hon'ble Supreme Court has refused to condone delay by holding that,*

"The entire explanation as noted above, depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal.

28 In the matter of condonation of delay and, lapses, the well accepted position is also that the accrued right of the opposite party cannot be lightly dealt with."

5.14 From the above decisions it becomes clear that in the case of condonation of delay where the appeal was filed beyond the limitation of period, the courts are empowered to condone the delay, provided that the Appellant can prove his claim of inability to file appeal within the prescribed period. Litigant must be able to demonstrate that there was "sufficient cause" which obstructed his action to file Appeal beyond the prescribed time limit.

From the facts of the case, it is clear that the statutory right to appeal which was vested with the appellant was not exercised within the stipulated time u/s.249(2). Thus, this clearly is, a case of lapses and is directly the result of deliberate inaction and negligence on the part of the appellant.

5.15 Further, the subject matter of the appeal is not important while considering the condonation application. Therefore, there is no denial or destruction of a statutory right in this case, by adhering to the prescribed period of limitation as otherwise it will only lead to protract the matter endlessly and will undoubtedly defeat the legislative scheme and intention behind the concerned provision as held by the Hon'ble Supreme Court in the case of Assistant Commissioner (CT) LTU, Kakinada & Ors. v. M/s Glaxo Smith Kline Consumer Health Care Limited 2020[36] G.S.T.1. 305.

5.16 For these reasons, the delay of 3900 days in filing of appeal in this case is not condoned as no "sufficient cause" has been shown u/s.249(3) of the Income Tax Act, 1961 for the appellant's failure to file the appeal within the prescribed period of limitation u/s.249(2) of the Income Tax Act, 1961 r.w.s. 5 of Limitation Act and hence the appeal sought to be instituted belatedly is hereby rejected.

5.17 In the result, as delay in filing of appeal is not condoned, the appeal is not admitted and is rejected accordingly.

6. In result, appeal is dismissed as not admitted.”

3. The Assessee, being aggrieved, challenged the order of the Ld. Commissioner in dismissing the appeal of the Assessee in limine for want of limitation u/s 249(2) of the Act and has claimed that vide letter dated 05.01.2023 for the A.Y. 2016-17 with regard to the outstanding demand issued by the Income Tax Officer (Exemption), ward 2(1), Mumbai and intimation dated 17.02.2023 u/s 245 of the Act issued by CPC for the A.Y. 2022-23, no demand

qua **A.Y. 2010-11** was raised and therefore the Assessee in good faith understood that no demand as on that date is existing, as the grievance filed by the Assessee in response to computation sheet u/s 143(1)(a) of the Act, raising the demand of Rs.63,58,490/-, has been addressed to and/or the subsequent response filed on dated 23.06.2020 for disputing the demand pertaining to **A.Y. 2010-11** has been addressed to or decided by not raising the demand. However, the CPC again vide intimation/communication dated 11.11.2024 u/s 245 of the Act has raised the demand of Rs.63,58,490/- u/s 143(1)(a) dated 23.03.2014 for the **A.Y. 2011-12** and subsequently on ITBA portal vide intimation order dated 26.12.2024 reiterated the said demand raised vide intimation dated 23.03.2014. Thus, the Assessee being aggrieved challenged the said orders dated 11.11.2024 and 26.12.2024 along with computation sheet/intimation order dated 23.03.2014 passed by the Asst. Director of Income Tax, CPC Bangalore for the A.Y. 2011-12, by filing first appeal on dated 02.01.2025 before the Ld. Commissioner and therefore the Assessee has claimed that as it has received the last intimation qua raising of demand for the A.Y. 2011-12 only on 11.11.2024 and 26.12.2024 and then only came to know about the said demand dated 26.12.2024 and therefore there was no delay in filing of an appeal before the Ld. Commissioner on dated 02.01.2025, though mentioned inadvertently by the Assessee in Form 35 and therefore inadvertently mistake of the Assessee may be pardoned and appeal be allowed .

4. On the contrary, the Ld. D.R. refuted the claim of the Assessee and supported the impugned order by submitting that the CPC and the AO by various communications intimated the demand qua A.Y. 2011-12 to the Assessee on various occasions, however, instead of filing appropriate appeal before the Ld. Commissioner, the Assessee on one or other pretext kept raising the grievances

before the other Revenue Authorities and therefore the Ld. Commissioner has correctly dismissed the appeal of the Assessee in limine, by not condoning the delay involved.

5. Heard the parties and perused the material available on record and given thoughtful considerations to the rival submissions of the parties.

6. In this case, the Assessee had declared its total income at "Rs.Nil" by filing its return of income u/s 139 of the Act on dated 29.11.2012 for the AY under consideration. The CPC while processing the return of income filed by the Assessee, sent a computation sheet u/s 143(1)(a) of the Act issued by Exemption, Ward 2(1), Mumbai, whereby the net demand of Rs.63,58,490/- has been raised. In the computation sheet at the bottom, it is clearly written as:

*"Please note that this is NOT an intimation/order. This information sheet shows the computation of tax and interest to the assessment year mentioned. **This is a taxpayer friendly measure to provide information to taxpayers** for previous assessment years where return was not processed at the Centralized Processing Center, Income Tax Department, Bangalore and where taxpayer may not readily possess the intimation sheet/order issued by the Department."*

7. The Assessee, being aggrieved, against the said computation sent by Assessing Officer (AO), (Exemption) Ward 2(1), Mumbai, filed a rectification application dated 28.04.2016 u/s 154 of the Act to the Joint CIT (Exemption), Ward 2(1), Piramal Chambers-Mumbai with the following submissions and requests:

"To

*The Joint CIT(E) Rg.2,
Exem Ward 2(1)
Piramal Chambers-Mumbai.*

Date: 28.04.2016

Dear Sir,

Re.: NATIONAL WELFARE FOUNDATION
PAN: AAATN 4022 F
A.Y.: 2011-12

Ref.: Intimation u/s 143(1A) of Income Tax Act, 1961
Sub.: Request for rectification u/s 154 of I.T Act, 1961.

Under instructions from our above named client and with reference to above, we hereby state, submit and request you as under:

The assessee has received Intimation u/s 143 of The Income Tax Act, 1961 with Demand of Rs.63,58,490/- to be paid for A.Y.2011-12.

We would like to bring in your notice that in the Tax & Computation Sheet, the Assessee is not being given the exemption u/s 10 and 11 and whole of the income is taken as taxable income

The Copy of Acknowledgement of IT return for the A.Y. 2011-12, Computation Sheet is enclosed for your record & reference.

This mistake seems to be apparent on record.

Therefore, we request your goodself to rectify the above mistake and cancel the demand and upload the Rectification in the CPC System to cancel the demand in the system.

We hope you will accede to our request.

Thanking You.

Yours Faithfully,

For JAIN JAIN & ASSOCIATES
CHARTERED ACCOUNTANTS

[GOUTAM JAIN]
PARTNER”

8. Thereafter, nothing has happened.

9. Subsequently, the CPC vide intimation dated 26.06.2019 u/s 143(1) of the Act for the A.Y. 2018-19, highlighted the demand for some of the previous assessment years including A.Y. 2011-12, whereby the demand of Rs.63,58,490/- vide demand order dated 23.03.2014 u/s 143(1)(a) of the Act has been reflected.

10. The Assessee, being aggrieved, against the demand highlighted/raised by the CPC vide intimation dated 26.06.2019 u/s 143(1) of the Act for the A.Y. 2018-19, challenged the same by raising an objection/response dated 23.06.2020, with the following requests: -

"We are not given the credit of exemption u/s 11 in the return processed by the CPC. Hence, requested you to give the credit of the same and cancel the demand thereafter vide intimation dated 05.01.2023 with regard to the demand outstanding in the case of the Assessee issued by Income Tax Officer (Exemption), Ward 2(1), Mumbai."

11. Thereafter, the following outstanding demands were intimated to the Assessee and requested to make payments of the outstanding demands immediately but no such demand for the AY 2011-12 has neither been highlighted nor raised:

Sr. No.	Asst. Year	Order under which the demand raised	Date of order	Amount (Rs.)
1	2020	154	19/08/2022	2,32,160
2	2017	143(3)	29/11/2019	7,12,000
3	2016	143(3)	1/12/2018	4,20,032

12. Thereafter, vide communication/intimation dated 17.02.2023 u/s 2(45) of the Act for the A.Y. 2022-23, the following outstanding demands and interest payable u/s 220(2) of the Act, were also intimated which read as under:

SL No.	A.Y.	Demand Uploaded by	Section code	Demand Order date	Demand number	Reference	Outstanding Demand in (₹)
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1	2006	CPC	220(2)	24-Jan-2023	2022200637147830345T	328243
2	2013	CPC	143(1)	01-Oct-2015	2015201337038333645T	320360

13. Thereafter, vide communication/intimation dated 11.11.2024 u/s 245 of the Act for the A.Y. 2024-25, the following outstanding demands and interest payable u/s 220(2) of the Act have been raised and intimated.

Sl. No	A.Y	Demand Uploaded by	Section code	Demand Order date	Demand Reference number	Taxpayer's Response	AO's Response	Outstanding Demand in (₹)
1	2013	CPC	143(1)a	01-Oct-2015	2015201337038333645T	No Response	Collectable	320360
2	2006	CPC	220(2)	24-Jan-2023	2022200637147830345T	No Response	No Response	191458
3	2014	CPC	143(1)a	10-Mar-2016	2015201437087799050T	Not Collectable	Collectable	470370
4	2011	CPC	143(1)a	23-Mar-2014	2013201110019847204T	Not Collectable	Collectable	6358490

14. Thereafter, vide intimation of demand dated 26.12.2024, the CPC at e-filing portal passed the order, as against the demand raised vide intimation dated 23.03.2014, by holding as under:

"Demand outstanding is correct and collectable".

15. The CPC vide order/intimation dated 26.12.2024 also raised the outstanding demand of Rs.1,46,87,994/- and accrued interest at Rs.83,29,504/-.

16. The Assessee thus challenged the intimations/orders 11.11.2024 and 26.12.2024 along with the intimation order dated 23.03.2014 passed by the Asst. Director of Income Tax, CPC Bangalore u/s 143(1) of the Act for the A.Y. 2011-12 as claimed by the Ld. Counsel of the Assessee, by filing first appeal before the Ld. Commissioner on dated 02.01.2025, however, of no avail, as the Ld. Commissioner dismissed the appeal of the Assessee in limine

being barred by limitation u/s 249(2) of the Act r.w.s. 5 of the Limitation Act.

17. The Assessee has claimed that admittedly, vide intimations letters dated 17.02.2023 u/s 245 of the Act issued by CPC for the A.Y. 2022-23 with regard to the outstanding demand issued by the Income Tax Officer (Exemption), ward 2(1), Mumbai and dated 05.01.2023 for the A.Y. 2016-17 with regard to the outstanding demand issued by the Income Tax Officer (Exemption), ward 2(1), Mumbai, **no demand qua A.Y. 2010-11 has been raised** and therefore the Assessee understood that no demand as on that date is existing, as the grievance/rectification application dated 06.05.2016 u/s 154 of the Act, filed by the Assessee in response to computation sheet u/s 143(1)(a) of the Act raising the demand of Rs.63,58,490/-, has been addressed to and/or the response filed on dated 23.06.2020 for disputing the demand pertaining to **A.Y. 2010-11** has been addressed to or decided by not raising any further demand.

However, the CPC again vide intimation/communication dated 11.11.2024 u/s 245 of the Act, has raised the demand of Rs.63,58,490/- u/s 143(1)(a) dated 23.03.2014 for the **A.Y. 2011-**

12. Thus, the Assessee being aggrieved challenged the intimations /orders dated 11.11.2024 and 26.12.2024 along with computation sheet/intimation order dated 23.03.2014 passed by the Asst. Director of Income Tax, CPC Bangalore for the A.Y. 2011-12, by filing an appeal on dated 02.01.2025 before the Ld. Commissioner and therefore the Assessee has claimed that as the Assessee had received the last intimation qua raising the demand for the A.Y. 2011-12 only on 11.11.2024 and 26..12.2024 and then only came to know about the said demand and therefore there was no delay in

filing of an appeal before the Ld. Commissioner, on dated 02.01.2025. We found force in the contention of the Assessee to the effect that in fact there was no delay in challenging intimations/communications dated 11.11.2024 and 26.12.2024, by which the demand of Rs.63,58,490/- u/s 143(1)(a) dated 23.03.2014 for the **A.Y. 2011-12**, has been intimated.

18. We even otherwise observe that the Assessee since beginning of raising the demand vide computation sheet dated 23.03.2014 and till issuing the ultimate intimation/demand dated 26.12.2024 and thereafter as well, consistently followed the Revenue Authorities for rectification of demand raised and it is a fact that in some of the intimations issued for the then assessment years, no such demand as involved in this case has been raised and therefore the Assessee in bonafide belief understood that his grievance has been addressed to and/or sorted out by deleting the demand.

19. We observe that it is also not in controversy that the Assessee starting from raising the demand initially and till filling of appeal and even thereafter continued with the proceedings before the Revenue Authorities with regard to the demand as involved, which in some of the intimations, admittedly has not been reflected to. It is also mandate of law, as enshrined in the limitation Act, if the party has prosecuted the litigation before a wrong forum but with due diligence and in good faith, then time spent in that proceedings, is liable to be excluded. Section 14 of the limitation Act 1963 prescribes exclusion of time consumed in carrying out bonafide proceeding, in the Court without jurisdiction.

“(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding whether in the court of first instance all of appeal for revision against the defended shall be excluded where the proceeding relates to the same matter in

issue and is prosecuted in good faith in court which from defect of jurisdiction or other case of like manner is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with the due diligence another civil proceeding, whether in the court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which from defect of jurisdiction or any CASS of a like manner is unable to entertain.”

20. Though the provisions of section 14 of the limitation Act, are not strictly applicable to the instant case, as there was no defect of jurisdiction or any case of like nature, is entertaining the claim of the Assessee by the AO, however, considering the true spirit of the provisions, as the Assessee has acted with due diligence and in good faith and continued with the proceedings by filing application u/s. 154 of the Act and raising various grievances, which otherwise have not yielded any result and therefore the Assessee is entitled for the leniency and/or exclusion of time spent in those proceedings detailed above.

21. Recently, the Hon'ble co-ordinate bench of the Tribunal in the case of Vishva Villa Co-operative Housing Society Ltd. V. ITO ward 19(3)(1) (ITA No. 682, 683, 684/MUM/2024) decided on 27.06.2024 also considered the identical facts and circumstances and **inordinate delay of nearly 8 years** and ultimately condoned the delay in filing of the first appeal before the Ld. CIT(A) by observing and holding as under:

“We heard both the parties and also peruse the relevant material based on record. First of all the Assessee has explained the reason for delay in filing of the first appeal before CIT(A) that earlier CA of the Assessee had filed rectification application u/154 before the AO/CPC, then Assessee was under bonafide belief that the adjustment would get rectified and even CA also did not advice the society to file an appeal when application was disposed of for certain period. It is later on when demand notice was issued then Assessee was advised to file an appeal. Thus,

looking to the fact that Assessee is cooperative housing society and it was under a bonafide belief that it has filed a rectification which was not disposed of till date, therefore delay in filing of first appeal cannot be held to latches on part of the Assessee. Thus, delay in filing appeal before the first appellate authority is condoned.”

22. This Court also observe that recently the coordinate bench of the Tribunal in the case of Palmera Co-op Housing Society Ltd. V. DCIT Circle 19(1)(ITA No. 2900 and 2899) decided on 30.08.2024, has also dealt with the identical issue and the inordinate delay and ultimately by following the judgement referred to above, condoned the delay of **3685 days** and consequently allowed the appeal of the Assessee.

23. Thus, considering the peculiar facts and circumstances in totality and the judgements referred to above, this Court is of the considered view that there was no delay in filing of an appeal before the Ld. Commissioner challenging the intimations/orders dated 11.11.2024 u/s 245 of the Act dated 26.12.2024 read with computation sheet/demand dated 23.03.2014. Even otherwise, if any delay is attributable then the same deserves to be condoned in view of the aforesaid peculiar facts and circumstances and the judgments and the provisions of section 14 of the Limitation Act as referred to above. Hence, we hold so. Thus, for just and proper decision of the case and substantial justice, we deem it appropriate to remand this case to the file of the Ld. Commissioner for decision on merit, suffice to say by affording reasonable opportunity of being heard to the Assessee.

24. Thus, the case is accordingly remanded to the file of the Ld. Commissioner for decision on merit.

25. In the result, Assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 29.09.2025.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.