



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकर अपीलसं/ITA No. 494/RJT/2025
निर्धारणवर्ष /Assessment Year: 2020-21

Om Ceramic Industries 8-A, National Highway, Wankaner, Morbi-363642 (Gujarat)	Vs.	Income Tax Officer, wd – 1, Anand Nagar, Morbi – 363642
PAN No.: AABFO6588L		
(अपीलार्थी/Assessee)	:	(प्रत्यर्थी/Respondent)

निर्धारितकीओरसे/Assessee by : None
राजस्वकीओरसे/Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing : 18/09/2025
घोषणाकीतारीख/Date of Pronouncement : 30/10/2025

ORDER

Per, Dr. Arjun Lal Saini, AM:

The present appeal has been filed by the assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 29.07.2025, arising in the matter of order passed by the assessing officer u/s 272A (1) of the Income Tax Act, 1961 (here-in-after referred to as "the Act"), relevant to the Assessment Year 2020-21.

2. Notice of hearing of this appeal was sent to the assessee at the address given by the assessee in Form No.36. The said notice has not been returned unserved. Today when the case was called for hearing none appeared on behalf of the assessee nor any request for adjournment was made. It means that assessee is



not interested in prosecuting this appeal. Hence the appeal filed by the assessee is heard, after hearing, learned DR for the revenue.

3. The Id. DR for the Revenue invited my attention to the order passed by the Ld.CIT(A), which is *ex-parte* order, wherein the Ld.CIT(A) did not condone the delay and dismissed the appeal of the assessee. The Ld.DR submitted that there is no discussion on merit by the Ld.CIT(A), therefore, matter may be remitted back to the file of the Ld.CIT(A) for fresh adjudication.

4. I have heard Ld. DR for the revenue, and noted that Ld.CIT(A) has adjudicated the issue on condonation of delay, where 770 days of delay were not condoned by the Ld.CIT(A), however, the effective delay in filing the appeal before the learned CIT (A), as per assessee, was 87 days only. I note that during the appellate proceeding, the assessee has submitted, before learned CIT(A), the petition for condonation of delay, which is reproduced below:

"1. Your honour may kindly appreciate that Ld. AO has passed order u/s 143(3) on 22.09.2022, which was served on 22.09.2022 and appeal before hon. CIT(A), was filed on 17.01.2023, hence there was delay of 87 days only.

2. Your honour may kindly appreciate that Ld. AO has passed order u/s 272A(1)(d) on 13.02.2023, which was served on 13.02.2023 and appeal before hon. CIT(A), was filed on 23.04.2025, hence there was delay of 770 days.

3. Your honour may kindly appreciate that Ld. AO has passed order u/s 271AAC(1) on 13.02.2023, which was served on 13.02.2023 and appeal before hon. CIT(A), was filed on 23.04.2025, hence there was delay of 770 days.

4. Your honour may kindly appreciate that while filing form 35 in condonation of delay it was mentioned that "Managing partner of the Firm was suffering from cardiac arrest and perform angioplasty during the period and thereafter the AR (CA) Auditor of the Firm has been changed. Festive and Audit season further added to delay in filing of appeal. Sir we all are not from the educated background and also unaware the compliance and also unaware the compliance and time line specified in the Act. We sincerely pray your honour to condone the delay

5. Your honor can analyse hat assessee is not having educational background and not aware of income tax proceedings and due to emergency health situation matter got further delayed.



6. Hence we request your honour to condone the delay and consider our submission in true spirit and good faith and there was no ill motive behind filing appeal after due date there was a genuine reason behind that as also stated in form 35.

In view of above facts, we kindly request your honour to condone delay in filing appeal.

We invite your honours kind attention to some judicial observation

The Supreme Court in the case of Collector, Land Acquisition, Anantnag and Anr.v. Mst. Katiji and Ors. AIR 1987 SC 1353 held as under: The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature Page 0795 is adequately elastic to enable the Courts to apply the law in a meaningful manner which sub-serves the ends of Justice that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making Court justify liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all justifiably liberal approach in matters instituted in this other Courts in the hierarchy. And such principle it is realized that ordinarily by lodging an appeal late. Refusing meritorious matter being thrown out a litigant does not stand to benefit liberal approach is adopted on condone delay can result in a the very threshold and cause of Justice being defeated. As against this when delay is condoned the highest cause would be decided on merits after hearing that can happen is that the parties.

In Ramlal, & Chhotelal v. Rewa Coalfields Ltd. [(1962) 2 SCR 762), it was laid down that in showing sufficient cause to condone the delay, it is not necessary that the applicants/appellant has to explain whole of the period between the date of the judgement till the date of filing the appeal. It is sufficient that the applicant/appellant would explain the delay caused by the period between the last of the dates of limitation and the date on which the appeal/application is actually filed. What constitute sufficient cause cannot be laid down by hard and fast rules.

In New India Insurance Co. Ltd. v. Smt. Shanti Misra [AIR 1976 SC 237], Supreme Court held that discretion given by Section 5 should not be defined or crystalized so as to convert a discretionary matter into a rigid rule of law. The expression "sufficient cause" should receive a liberal construction. In Inder Singh v. Kanshi Ram [AIR 1917 PC 156] it was observed that true quite for a court to exercise the discretion under Section 5 is whether the appellant acted with reasonable diligence in prosecuting the appeal. In Shakuntala Devi Jain v. KuntalKumari&Ors. [(1969) 1 SCR 10061, a Bench of three Judges had held that unless want of bona fides of such inaction or negligence as would deprive a party of the protection of Section 5 is proved, the application must not be thrown out or any delay cannot be refused to be condoned.

In Concord of India Insurance Co. Ltd. v. Nirmala Devi &Ors. [(1979) 3 SCR 694] which is a case of negligence of the counsel which misled a litigant into delayed pursuit of his remedy the default in delay was condoned. In Lala Mata Din v. A. Narayanan [(1970) 2 SCR 90], Supreme Court had held that there is no general proposition that mistake of counsel by itself is always sufficient cause for condonation of delay. It is always a question whether the mistake was bona fide or was merely a



devise to cover an ulterior purpose. In that case it was held that the mistake committed by the counsel was bona fide and it was not tainted by any mala fide motive

In State of Kerala v. E.K. Kuriyipe&ors. (1981) Supp. SCC 721, it was held that whether or not there is sufficient cause for condonation of delay is a question of fact dependant upon the facts and circumstances of the particular case.

In Smt. Milavi Devi v. Dina Nath (1982) 3 SCR 366], it was held that the appellant had sufficient cause for not filing the appeal within the period of limitation. This Court under Art.136 can reassess the ground and in appropriate case set aside the order made by the High Court or the Tribunal and remit the matter for hearing on merits. It was accordingly allowed, delay was condoned and case was remitted for decision on merits.”

5. I have heard Ld DR and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, by assessee during the appellate proceedings, before ld.CIT(A) and perused the facts of the case including the findings of the ld CIT(A) and other materials brought on record. I note that the assessee has explained sufficient cause during the appellate proceeding before the Ld.CIT(A) to explain the effective delay of 87 days, excluding 30 days of filing the appeal before learned CIT(A). The reasons for delay were convincing in nature, therefore, I condone the delay in filing the appeal before the Ld.CIT(A).

6. On merit, (and considering the above facts), I note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the ld. CIT(A). I note that the ld. CIT(A) did not discuss the assessee's case on merits based on the material available before him hence it is a violation of principle of natural justice. I note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, I restore the matter back to the file of Ld. CIT(A) for *de novo* adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who



in turn, is also directed to contest his stand forthwith. Therefore, I deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced in the open court on 30/10/2025.

Sd/-
(Dr. Arjun Lal Saini)
Accountant Member

राजकोट/Rajkot
दिनांक/ Date : 30/10/2025

(True Copy)

Copy of the order forwarded to :

- The assessee
- The Respondent
- CIT
- The CIT(A)
- DR, ITAT, RAJKOT
- Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot