

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, KOLKATA**

**SHRI SONJOY SARMA, JUDICIAL MEMBER  
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER**

**I.T.A. No. 1975/Kol/2025  
Assessment Year 2016-17**

**Bibekananda Panda,**

Vill- Nayapara, Kakdwip,  
West Bengal - 743347  
[PAN: BOIPP3459K]

..... **Appellant**  
**vs.**

**ITO Ward 26(4), Kolkata,**

Aayakar Bhawan Dakshin,  
2, Gariahat Road,  
Kolkata - 700031

..... **Respondent**

**Appearances by:**

Assessee represented by : Miraj D Shah, AR  
Department represented by : Monalisha Pal Mukherjee, JCIT

Date of concluding the hearing : 30.10.2025

Date of pronouncing the order : 31.10.2025

**ORDER**

**PER SANJAY AWASTHI, ACCOUNTANT MEMBER:**

1. In this case, there is a delay of 89 days for which an application has been filed, requesting condonation of said delay as under:

*"I Bibekananda Panda, son of Byomkesh Panda, of -Nayapara, Kakdwip, south 24 pgs, Pin Code-743347, by occupation business, having PAN no. BOIPP3459K. do hereby solemnly declare and affirm as follows:*

*That I have received the Appellate Order u/s 250 of the Income-tax Act, 1961 for the AY: 2016-2017 on 17.03.2025. The appeal against the said order should have been filed on or before 16.05.2025 at the Hon'ble Income Tax Appellate Tribunal, Kolkata and there is a delay of 103 days Court in filing the appeal.*

*2. That am living in a remote village area and actively engaged in my fishing business and also from the point of view of education not at all Conversant with the niceties and complexity of income tax and accounts. The income tax and accounts of the business was maintained by consultants from time to time as per availability of information about consultants in the remote village area. As I being not conversant with the accounts and income tax and has dependent solely on such consultants. The login ID and password of the E-filing portal was also kept by the said consultants and had never shared with me. The said consultants have*

*never informed to me about the notices and issued by the Income Tax Authorities. Therefore, I have failed to comply with the notices and also failed to file the appeals within time.*

*3. That as a result of above, I could not file the appeal for AY 2016-2017 in time before the Hon'ble ITAT, Kolkata and thus there was delay of 103 days in filing of this appeal.*

*4. That the delay in filing of appeal was not due to any malafide reasons but due to the above stated reason.*

*5. That whatever is declared herein above is true to the best of my knowledge and belief.*

*Solemnly declared and affirmed by the declarant Sri Bibekananda Panda on this 4TH day of Sept. 2025 at Kolkata.”*

1.1 Considering the reasons given in the said application, the delay is hereby condoned and the appeal is admitted for adjudication.

2. This appeal arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”) dated 17.03.2025, passed by the Ld. Commissioner of Income Tax (Appeals), Additional/Joint Commissioner of Income Tax (Appeals)-10, Delhi [hereafter “the Ld. CIT(A)”].

2.1 In this case, the assessee filed the first appeal vide Form No. 35 dated 19.03.2019, that a delay of 33 days. This delay was not condoned and the appeal has been dismissed in *limine*.

2.2 Right at the outset, the Ld. AR assailed the action of Ld. Addl/JCIT(A) in not considering the short delay of 33 days for condonation. It was stated that the appellate order came as a surprise since there was no opportunity to request for condonation of the delay.

2.3 The Ld. DR had no objection in case the delay was to be condoned and the matter was to be remanded back.

2.4 The Ld. AR stated that it was an *exparte* order passed by the Ld. AO and since the facts have not thrashed out at any level hence, it was requested that the matter may be remanded back to the file of Ld. AO.

3. We have carefully considered the submissions and have gone through the records. It is seen that the Ld. Addl./JCIT(A) has very abruptly dismissed the appeal on grounds of limitation. It is a fact that the assessee should have filed a petition for condoning the delay along with form of appeal. However, in the interests of substantive justice, we deem it fit to set aside the impugned order and remand this matter back to the file of Ld. AO for fresh assessment. The assessee would do well to represent the facts in a timely manner before the Ld. AO.

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

Order pronounced on 31.10.2025

Sd/-

**(Sonjoy Sarma)**  
**Judicial Member**

Sd/-

**(Sanjay Awasthi)**  
**Accountant Member**

Dated: 31.10.2025  
AK, Sr. P.S.

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches