

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)
AND
SMT. RENU JAUHRI (ACCOUNTANT MEMBER)**

**I.T.A. No. 4697/Mum/2025
Assessment Year: 2018-19**

Raj Group 1209, V Time Square Plot No. 3, Sector – 15 CBD Belapur, Navi Mumbai District – Thane Pin - 400614 [PAN: AAFR9689K]	Vs.	Assistant Commissioner of Income Tax, Circle-2, Kalyan
(Appellant)		(Respondent)

Appellant by	Shri Shriram Bajaj, A/R
Respondent by	Shri Annavaram Kosuri, Sr. D/R

Date of Hearing	11.11.2025
Date of Pronouncement	27.11.2025

ORDER

Per Smt. Beena Pillai, JM:

Present appeal filed by the assessee arises out of order dated 23/03/2025 past by NFAC, Delhi [hereinafter “the Ld. CIT(A)”] for assessment year 2018-19.

2. At the outset the Ld. AR submitted that there is delay of 53 days in filing the present appeal before this *Tribunal*. It is submitted that assessee provided email ID-rajgnpvt@gmail.com on the Income Tax portal as well as in form 35. It was submitted that this e-mail ID was operated by the accountant of the assessee who left the employment in January, 2025. The Ld. AR submitted that

subsequently the notices sent to the said email ID were not in the knowledge of the assessee and, therefore, the assessee could not represent its case before the Ld. CIT(A). It is submitted that for the same reason the impugned order passed by the Ld. CIT(A) also went out of sight and, therefore, there is a delay in filing the present appeal before this *Tribunal*.

2.1. On the contrary the Ld. DR though objected for the condonation, could not controvert the submissions of the assessee.

We have perused the submissions advanced by both sides in the light of the records placed before us.

2.2. It is noted that there is no *malafide* intention on behalf of assessee in not filing the present appeal before this *Tribunal*, within the period of limitation. Nothing to establish any such intention has been filed by the revenue before this *Tribunal*. In our opinion there is sufficient cause for condoning the delay as observed by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.*, reported in (1987) 167 ITR 471 in support of his contentions.

2.3. We place reliance on following observations by *Hon'ble Supreme Court* in case of *Collector Land Acquisition Vs. Mst. Katiji & Ors.*, reported in (1987) 167 ITR 471 wherein, *Hon'ble Court* observed as under:-

"The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits". The expression "sufficient cause" employed by the Legislature is adequately elastic to

enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.

And such a liberal approach is adopted on principle as it is realized that :

1. Ordinarily, a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties.

.....1.Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”

2.4. Considering the submissions by both sides and respectfully following the observation by *Hon’ble Supreme Court*, we find it fit to condone the delay caused in filing the present appeal as it is not attributable to the assessee.

In any event, though the procedural law pertaining to the limitation has been drafted to construe it strictly, the fact remains that, considering such technicalities will not advance the cause of justice.

Accordingly, we condone the delay in filing the present appeal in I.T.A. No. 4697/Mum/2025 before this Tribunal.

3. On merits, the Ld. AR submitted that the impugned order passed in the present appeal is *ex parte* order without considering the submissions of the assessee. He submitted that the Ld. CIT(A) dismissed the appeal by holding that the assessee is not interested in contesting the case. The Ld. AR submitted that four notices were issued to the assessee, that was sent to the email ID of the employee of the assessee who failed to inform the same to the assessee. The Ld. AR prays for an opportunity of being heard in the interest of justice.

4. Considering the submission of the Ld. AR, we are of the opinion that assessee deserves an opportunity of being heard on merits before the Ld. CIT(A). We, therefore, remit the issue back to the Ld. CIT(A) to consider the case in accordance with law having regards to submissions/evidences furnished by the assessee. Needless to say that proper opportunity of being heard must be granted to the assessee.

Accordingly grounds raised by the assessee stands partly allowed for statistical purposes.

In the result appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on 27/11/2025

Sd/-

**(RENU JAUHRI)
Accountant Member**

Sd/-

**(BEENA PILLAI)
Judicial Member**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By order

(Asstt. Registrar)
ITAT, Mumbai