

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

आयकर अपील सं. / ITA No: 654/RPR/2025
(निर्धारण वर्ष Assessment Year: 2018-19)

Veer Projects, 10/341, Sadar Bazar, Raipur-492001, C.G.	v s	Deputy Commissioner of Income Tax, Circle-1(1), Raipur- 492001, C.G.
PAN: AAHFV3785G		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Vikram Chhabda, C.A.
राजस्व की ओर से / Revenue by	:	Shri Saad Kidwai, CIT-DR
सुनवाई की तारीख / Date of Hearing	:	27.11.2025
घोषणा की तारीख / Date of Pronouncement	:	27.11.2025

आदेश / ORDER

Per Arun Khodpia, AM:

The captioned appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi, [in short "Ld. CIT(A)"] passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 18.08.2025 for the Assessment Year 2018-19, which has been arises from the order u/s 143(3) r.w.s. 144B of the Act, passed by Assessment Unit, National E-Assessment Centre, Delhi, dated 30.04.2021 (in short "Ld. AO").

2. The grounds of appeal raised by the assessee are as under:

1	8. That on the facts and in the circumstances of the case and in law, the assessing officer erred in making an addition of Rs. 2,56,47,012/- u/s 68 on account of sundry creditors.
2	9. The appellant craves to add, alter OR DELETE any of the grounds of appeal during the course of appellate proceedings.
3	4. That on the facts and in the circumstances of the case and in law, the learned CIT(A) failed to provide effective opportunity of being heard, hence, violated the principles of natural justice.
4	5. That on the facts and in the circumstances of the case and in law, the assessing officer erred in making ad-hoc disallowance of Rs. 53,65,097/- to the total income.
5	6. That on the facts and in the circumstances of the case and in law, the assessing officer erred in making an addition of Rs. 45,16,001/- on account of difference between receipts as per form 26AS and as per return of income filed by the appellant.
6	7. That on the facts and in the circumstances of the case and in law, the assessing officer erred in making an addition of Rs. 2,63,43,671/- u/s 68 on account of unsecured loan.
7	1. That on the facts and in the circumstances of the case and in law, the notice u/s 143(2) of the Act dated 22/09/2019 is illegal and bad in law.
8	1. That on the facts and in the circumstances of the case and in law, the assessment order passed u/s 143(3) of the Act dated 30/04/2021 is illegal and bad in law.
9	3. That on the facts and in the circumstances of the case and in law, the learned CIT(A) failed to condone the delay in filing of appeal, as the reason for delay was duly submitted before the CIT(A).

3. Brief facts of the case are that the assessee has filed its e-return for AY 2018-19 on 31.10.2018, declaring total income of Rs. 51,29,960/-, thereafter its case has been selected for complete scrutiny under "CASS". Statutory notices were issued, queries raised, which was responded by the assessee and the assessment was completed with following additions:

Total Income as per computation of income	51,29,960
Add: Disallowance / Additions as discussed above	
1. Expenses debited to P & L A/c – 10% of the expenses	53,65,097
2. Interest Paid on TDS	5,059
Difference in income as per 26AS and P&L	Rs. 4516001
Total	Rs. 1,50,16,117
Disallowances as discussed above u/s 68 of the Act and taxable at special Rate u/s 115BBE	
1. Unsecured Loan	2,63,43,671
1. Sundry Creditors	2,56,47,012
Total assessed Income	Rs.6,70,06,800

4. Aggrieved with the aforesaid additions, assessee preferred an appeal before the Ld. CIT(A), however, the appeal of assessee has been dismissed *in limine*, without any adjudication on merits on account of limitation, as the appeal was filed with a delay of 120 days before the Ld. CIT(A), while dismissing the appeal of assessee, Ld. CIT(A) has observed as under:

5.8 *In the present case, the appellant furnished reason for delay in form 35, which is reproduced below:-*

"The appellant was trying to file appeal against the assessment order passed. However, the facility to file appeal on the newly launched portal was not available. Further. there was technical issues while filling the appeal."

Further. it is also claimed by the appellant that order u/s 143(3) r.w.s. 1448 of the act passed on 30/04/2021 was received by him on 03/05/2025. The claim is not supported by any evidence. In this context, it is to be mentioned here that assessment order is passed in faceless manner and dispatched through registered email of the appellant through ITBA module immediately after passing of order and generating DIN in system. Hence, claim of the appellant is in respect of date of receipt is not tenable.

The reason for delay in filling as mentioned by the appellant are not at all satisfactory and devoid of merits. Reasons are not treated as sufficient and reasonable cause for delay in filling of appeal. Hence, reason for delay in filling of appeal as per form-35 are hereby not considered.

5.9 *On the given facts of the case, it is clear that the statutory right to appeal which was vested with the appellant has not been exercised within the stipulated time under section 249(2). Thus, this is clearly a case of lapses, which are directly the result of deliberate inaction on the part of the appellant.*

5.10 *This is not a case of change in law which is beneficial to the appellant and hence the delay in seeking such remedy may be condoned in the furtherance of substantial justice. 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 render the legislative scheme and intention behind the concerned provision otiose as held by the Hon'ble Supreme Court in the case of Assistant Commissioner (CT) LTU, Kakinada & Ors. Vs M/s Glaxo Smith Kline Consumer Health Care Limited (2020) (36 G.S.T.L. 305).*

5.11 *Hon'ble High Court of Punjab and Haryana, in the case of CIT Vs Ram Mohan Kabra (2002) (257 ITR 773) (Punjab & Haryana) has upheld the decision of Tribunal, in declining the condonation of delay of five days only, with the following ratio:-*

*"3. The provisions relating to prescription of limitation in every statute must not be construed so liberally that it would have the effect of taking away the benefit accruing to the of other party in a mechanical manner. Where the Legislature spells out a spells out a period of limitation and provides for power to condone the delay as well, there **such delay can be condoned only for sufficient and good reasons supported by cogent and proper evidence.** Now it is v settled principle of law that the provisions relating to specified period of limitation must be applied with their rigour and effective consequences,"*

6. *On the facts and circumstances of the case, and in view of the position of law applicable on the given facts, I am satisfied that the appeal has not been presented within the period prescribed under section 249(2) of the Act. i.e. thirty days from the date of service of the notice of demand relating to the assessment order. I am also satisfied that the appellant has not been able to show any "sufficient cause" for not presenting the appeal within the said prescribed period, within the meaning of section 249(3) of the Act, read with section 5 of The Limitation Act. Accordingly, the appeal is not admitted for adjudication on merits.*

7. *In the result, the present appeal is dismissed in limine.*

5. Because of dismissal of appeal before the First Appellate Authority, being dissatisfied, the assessee filed the present appeal for our consideration.

6. At the outset, Shri Vikram Chhabda, Authorized Representative (In short "Ld. AR"), submitted that the appeal of assessee has been dismissed by the Ld. CIT(A) on account of limitation by treating the same time barred and not eligible for condonation of delay, as the assessee was unable to substantiate sufficient cause for not presenting the appeal within the prescribed time limit in terms of provisions of section 249(3) of the Act r.w.s. 5 of the limitation Act. Ld. AR further submitted that the order was passed by Ld. AO on 30.04.2021 and at that time the pandemic Covid-19 was on peak and the period of the delay was also covered by *suo moto* extension of limitation by Hon'ble Supreme Court, therefore, actually there was no delay in filing of the appeal, however, this fact could not be furnished before the First Appellate Authority. It is also submitted by the Ld. AR that due to some technical glitches in the Appellate portal of the Income Tax Department some delay had occurred. He further submitted that Ld. CIT(A) had taken a view that assessee was failed to furnish corroborative evidence in claiming that the impugned assessment order was served on the assessee on 03.05.2021 instead of within the reasonable period when the order was passed on 30.04.2021. From the order of Ld. CIT(A) nothing is emanating that the assessee was confronted with the issue to furnish the necessary evidence to support the sufficient cause for

condonation of delay. It was the submission that the assessee is able to furnish necessary submissions, evidences to contradicting the observation of Ld. CIT(A) to establish the delay occasioned was on account of unintentional and sufficient cause obstructing the assessee to file the appeal beyond the prescribed limitation time. Ld. AR further, requested to set aside the issue back to the file of Ld. CIT(A) so that the assessee would be able to furnish necessary information, evidence and submissions to satisfy the authority about the condonation of delay.

7. Per contra, Ld. CIT-DR vehemently supported the order of Ld. CIT(A), however, have not objected to the request of assessee, if the matter is restored back to the file of Ld. CIT(A) for fresh adjudication on limitation as well as on merits.

8. We have considered the rival submissions, perused the material available on record and contentions of both the parties. As the assessee had filed its appeal with a delay of 120 days before the Ld. CIT(A), further it is claimed by Ld. AR that the period of delay was covered by the order for *suo moto* extension of limitation by Hon'ble Supreme Court on account of Covid-19, which the assessee was missed to mention before the Ld. CIT(A). Accordingly, the assessee is permitted to furnished necessary information before the Ld. CIT(A), along with evidence for service of orders with delay. Ld. CIT(A) is also directed to look into the matter in

terms of evidence furnished by the assessee and decide on the limitation aspect following the principle of natural justice.

9. In backdrop of aforesaid evidences, as fairly requested and conceded by parties herein, we are restoring the matter back to the file of Ld. CIT(A) to first decide the issue on condonation of delay and if the assessee succeeds, then the appeal of assessee on the grounds of appeal therein. Assessee may be allowed reasonable opportunity of being heard.

10. In result, the appeal of assessee has been **allowed for statistical purposes**, in terms of our aforesaid observations.

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

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(ARUN KHODPIA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 27/11/2025
Vaibhav Shrivastav, Stenographer

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant- Veer Projects
2. प्रत्यर्थी/ The Respondent- DCIT, Circle-1(1), Raipur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur

5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur