

**IN THE INCOME TAX APPELLATE TRIBUNAL "F" BENCH  
MUMBAI**

**BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA Nos. 7225 and 7226/MUM/2025  
Along with SA Nos. 145 and 144/MUM/2025**

**Assessment Year: 2017-18**

Jayashree Chandrasingh Kabali 402, Spectrum, M.P. Vaidya Road, Ghatkopar East, Mumbai – 400 077  (PAN : AGFPK7084D)	Vs.	Deputy Commissioner of Income Tax, Circle 27(1), Navi Mumbai
<b>(Assessee)</b>		<b>(Respondent)</b>

**Present for:**

Assessee : Shri Mehul Shah, CA  
Revenue : Shri Annavaram K., Sr. DR

Date of Hearing : 14.11.2025  
Date of Pronouncement : 21.11.2025

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

These two appeals filed by the assessee are against the orders of CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order nos. ITBA/NFCA/S/250/2025-26/1080151012(1) and ITBA/NFCA/S/250/2025-26/1080177826(1) dated 29.08.2025 passed against the assessment and penalty orders by National Faceless Assessment Centre, Delhi, u/s. 147 r.w.s. 144 r.w.s. 144B and 271AAC(1) of the Income-tax Act, 1961 (hereinafter referred to

as the “Act”), dated 23.09.2021 and dated 10.02.2022 for AY 2017-18.

2. Before us, assessee has moved the stay applications both in the quantum assessment and the penalty imposed thereafter, in respect of reassessment order passed u/s.147 r.w.s. 144 and penalty order u/s. 271AAC(1). Demand raised by the reassessment order dated 23.09.2021 is of Rs.8,53,86,596/- comprising of tax of Rs.5,59,28,576/- and interest of Rs.2,94,58,020/-. In the application for grant of stay, in respect of amount already paid, assessee has mentioned ‘nil’. In respect of stay application relating to levy of penalty, the demand raised is of Rs.54,07,500/- against which also amount already paid mentioned by the assessee in the stay petition is ‘nil’.

3. Considering the order of the authorities below, both the parties agreed to take up the appeals for our adjudication. We have perused the material on record and gone through the orders of the authorities below. Brief facts of the case are that assessee is a senior citizen earning income from other sources. She filed her return of income on 13.03.2018 reporting total income at Rs.57,99,540/- which was selected for limited scrutiny under CASS on the issue of cash deposit. Explanations were called for in respect of which assessee made her submissions on the ITBA portal and the returned income was accepted as such by passing the assessment order u/s. 143(3) dated 07.12.2019.

3.1. Subsequently, case of the assessee was reopened for the reason that assessee had failed to disclose her assets which included

fixed deposit with Canara Bank of Rs.5.50 crores and with NABARD of Rs.1.50 crores, totaling to Rs.7 crores. Ld. Assessing Officer noted that sources of funds utilized for these fixed deposits were not disclosed by the assessee. Notice u/s. 148 was thereafter issued dated 25.02.2020. Assessee did not file her return in response to the said notice. Several notices were issued u/s. 142(1) by the ld. Assessing Officer fixing the hearing and giving opportunity to the assessee to explain her case. Repeated notices failed to move the assessee for making necessary compliances. Hence, the assessment was completed *ex parte* by passing a best judgment assessment order with an addition of Rs.7 crores, treating it as unexplained investment u/s. 69. Penalty proceedings u/s. 271AAC were initiated on completion of the said reassessment.

3.2. Assessee filed her first appeal against the reassessment order passed u/s. 147 read with section 144 dated 23.09.2021 on 16.11.2022. Though there was a delay of 388 days in filing this first appeal, assessee in Form 35, mentioned 'no delay' for the same.

3.3. Ld. CIT(A) noted in paragraph 4 that the said first appeal was filed with a delay of 54 days. He also took note of the fact of 'no delay' mentioned by the assessee in column 14 of Form 35. According to him, since no explanation was furnished in respect of delay in filing the said appeal, he held that assessee had failed to establish any reasonable cause for the said inordinate delay and thus, denied condoning the same. Appeal was thus, dismissed as barred by limitation without admitting it for adjudication on merits.

3.4. Similar are the facts in respect of penalty order passed by the ld. AO imposing a penalty of Rs. 54,07,500/- u/s. 271AAC(1) vide order dated 10.02.2022, against which assessee preferred her first appeal on 16.11.2022 with a delay of 248 days. Ld. CIT(A) dismissed this first appeal in respect of penalty on the same ground being barred by limitation, without admitting it for adjudication on merits.

4. On a specific query by the Bench to explain the reasons for delay, if any, furnished before the ld. CIT(A), ld. Counsel referred to an affidavit placed on record. From the perusal of the same, it is noted that she was served a letter dated 14.09.2022 on 10.11.2022 regarding recovery of demand through which she came to know that assessment order has been passed, raising the aforesaid demand. She claims that she never viewed/received any notice nor was aware of any such proceedings which were undertaken as she being a senior citizen, does not use internet and have e-mail facility. Thus, she was prevented by a sufficient cause in filing the appeal within the prescribed limitation. Similar claim is made in respect of demand raised by imposition of penalty.

4.1. Further, from the perusal of records, it is noted that in the quantum proceedings, ld. CIT(A) had issued notices fixing the date of hearing and asking the assessee to make her submissions in support of her grounds of appeal. Two such notices dated 22.11.2023 and 08.04.2025 are placed on record for which assessee made her submissions in the appellate proceedings. In this respect, copies of e-Proceedings Response Acknowledgement dated 28.11.2023 against notice dated 22.11.2023 and another e-Proceedings Response Acknowledgement dated 17.05.2025 against

notice dated 08.04.2025 are placed on record whereby assessee made her submissions. Similar fact pattern exists in the case of penalty imposed on the assessee against which also, she went in appeal before the Id. CIT(A).

4.2. We have also noted the explanations furnished by the assessee, which according to her are sufficient cause for the delay which occurred in filing the first appeal before the Id. CIT(A) and have not been considered in the right perspective.

5. Having taken note of the above factual position in respect of proceedings undertaken by the authorities below for the purpose of granting stay on the demand raised, the Bench mulled on the ultimate outcome of the appellate proceedings before the Tribunal since it is an *ex parte* order by the Id. AO and dismissal of first appeal in limine as barred by limitation without adjudication on merits. In the given set of facts, in our considered view, whether stay is granted or not, the issues raised by the assessee in her appeal needs to be adjudicated on their merits which none of the authorities below had done so. For this purpose, the ultimate outcome would be remitting the matter back to the file of either Id. CIT(A) or to the Id. AO for meritorious consideration. Accordingly, we are inclined to take up the appeals for adjudication along with disposing stay petition, both for the reassessment order and the penalty order.

5.1. Facts relevant to the delay in filing of appeals both, before the CIT(A) and the Tribunal have already been narrated in the above

paragraphs. We have also taken note of the facts relating to the addition made in the hands of the assessee as mentioned above.

5.2. In respect of disposal of appeals by the ld. CIT(A) in limine by treating them as barred by limitation without their admission, we note that when ld. CIT(A) issues notices fixing the date of hearing asking the assessee to furnish submissions in respect of the grounds of appeal, it would mean that condonation of delay of application has been allowed by the ld. CIT(A). Dismissal by the ld. CIT(A) is not valid. In this respect, we refer to the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Stride Multitrade Pvt. Ltd. vs. ACIT, [2021] 133 taxmann.com 282 (Bom). Hon'ble Court on similar fact pattern held that dismissal of appeal by ld. CIT(A) in *limine* after having issued notices fixing the date of hearing by calling submissions on the grounds of appeal, is not valid. Hence, such an action of ld. CIT(A) is liable to be set aside.

6. Also, to address the issue in hand before us, we need to delve into the understanding of the expression "sufficient cause". Sub-section 3 of Section 249 contemplates that the CIT(A) may admit an appeal after expiry of relevant period, if he is satisfied that there was a "sufficient cause" for not presenting it within that period. Similarly, it has been used in section 5 of Indian Limitation Act, 1963. Whenever interpretation and construction of this expression has fallen for consideration before Hon'ble High Court as well as before the Hon'ble Supreme Court, then, Hon'ble Court were unanimous in their conclusion that this expression is to be used liberally.

6.1. We may make reference to the following observations of the Hon'ble Supreme Court from the decision in the case of *Collector Land Acquisition Vs. Mst. Katiji & Others, 1987 AIR 1353*:

*"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.*

*3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*

*4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*

*5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*

*6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

6.2. Similarly, we would like to make reference to authoritative pronouncement of Hon'ble Supreme Court in the case of *N. Balakrishnan Vs. M. Krishnamurthy (supra)*. It reads as under:

*"Rule of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be putt to litigation).*

*Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.*

*A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under [Section 5](#) of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain Vs. Kuntal Kumari* [AIR 1969 SC 575] and *State of West Bengal Vs. The Administrator, Howrah Municipality* [AIR 1972 SC 749]. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quiet a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."*

6.3. We do not deem it necessary to re-cite or recapitulate the proposition laid down in other decisions. It is suffice to say that the Hon'ble Courts are unanimous in their approach to propound that whenever the reasons assigned by an applicant for explaining the delay, then such reasons are to be construed with a justice oriented approach.

6.4. In light of the above, if we examine the facts, then it would reveal that there is a delay of 388 days in the appeal against reassessment order and of 248 days in the appeal against penalty

order for filing of the first appeal by the assessee before the ld. CIT(A). In its submissions as reproduced in the order of ld. CIT(A), assessee has explained the reasons which prevented it in filing the appeal withing the prescribed limitation. Therefore, for the just decision of the controversy, it is incumbent upon us to condone the delay.

7. On considering the overall facts and circumstances of the case, we find that when ld. CIT(A) has issued notices fixing the date of hearing, calling explanations/submissions from the assessee, on the grounds of appeals, without show causing the assessee to explain the delay, it was impliedly considered to be condoned in view of the decision of Hon'ble Jurisdictional High Court of Bombay in the case of Stride Multitrade (supra). Even otherwise, for the just decision of the controversy, it is incumbent upon us to condone the said delay.

7.1. In terms of our above observations and finding, we find it appropriate to set aside the order of ld. CIT(A) dismissing the appeal in *limine* for both, re-assessment order passed u/s. 147 r.w.s. 144 and penalty order passed u/s. 271AAC(1). In the interest of justice and fair play, we remand the matter back to the file of ld. Assessing Officer for *denovo* meritorious adjudication for which reasonable opportunity may be given to the assessee to explain her case vis-à-vis investment in fixed deposits which were added in the impugned reassessment. Ld. AO may exercise his powers in respect of penalty proceedings u/s 271AAC based on outcome of this *denovo* meritorious adjudication of reassessment, in accordance with the provisions of the Act.

7.2. Since the reassessment matter has been remitted back to the file of ld. Assessing Officer for *denovo* meritorious adjudication, both the penalty imposed u/s. 271AAC and the demand raised in the impugned reassessment order does not survive. This results into making both the stay petitions infructuous. Accordingly, both the said petitions are dismissed as infructuous.

7.3. Further, we also note that notices u/s.226(3) were issued dated 30.10.2025 to attach the bank account of the assessee including the one where she is a second holder, for the recovery of demand raised both, in the reassessment and penalty proceedings. Since the said demands do not survive in view of our observations and findings above, the bank accounts so attached by the department are also directed to be vacated.

8. In the result, both the stay petitions of the assessee are dismissed and both the appeals are allowed for statistical purposes.

Order is pronounced in the open court on 21 November, 2025

Sd/-  
(Saktijit Dey)  
Vice President

Sd/-  
(Girish Agrawal)  
Accountant Member

*Dated: 21 November, 2025*

Copy to :

1. The Assessee
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai