

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.1770/PUN/2025
Assessment year : 2018-19**

Dnyaneshwar Ekanath Balwadkar Balewadi Haveli, Pune – 411045	Vs.	ITO, Ward 2(2), Pune
PAN: ATHPB4978N		
(Appellant)		(Respondent)

Assessee by : Shri Nikhil S Pathak
Department by : Shri A D Kulkarni
Date of hearing : 26-11-2025
Date of pronouncement : 28-11-2025

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 27.06.2025 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2018-19.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the Ld. CIT(A) / NFAC in dismissing the appeal on account of delay in filing of the appeal.

3. Facts of the case, in brief, are that the assessee is an individual agriculturist and has not filed his return of income for the impugned assessment year. As per information available on record the assessee has entered into certain financial transactions amounting to Rs.2,00,22,000/- during the financial year 2017-18

relevant to assessment year 2018-19. Accordingly, the case of the assessee was reopened as per provisions of section 147 of the Act after taking approval of the competent authority and notice u/s 148 was issued and served on the assessee. Since the assessee did not comply to the various statutory notices issued by the Assessing Officer, therefore, the Assessing Officer in the order passed u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') dated 18.03.2024, determined the total income of the assessee at Rs.5,74,28,150/-.

4. Since there was delay in filing of the appeal by 193 days before the Ld. CIT(A) / NFAC, the Ld. CIT(A) / NFAC did not condone the delay and dismissed the appeal *in-limine*.

5. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal.

6. The Ld. Counsel for the assessee submitted that the assessee is an agriculturist and is not well acquainted with technology. With much difficulties he could register in the e-filing portal of the department only on 24.09.2024 and thereafter filed the appeal with a delay of 193 days. Relying on various decisions he submitted that the Ld. CIT(A) / NFAC should have condoned the delay and decided the appeal on merit.

7. The Ld. DR on the other hand heavily supported the order of the Ld. CIT(A)/NFAC.

8. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case in the order passed u/s 147 r.w.s. 144 of the Act determined the total income of the assessee at Rs.5,74,28,150/- on the ground that the assessee failed to file the return in response to the notice u/s 148 of the Act and respond to the subsequent notices to explain his case. We find the Ld. CIT(A) / NFAC dismissed the appeal filed by the assessee *in limine* and has not decided the appeal on merit. It is an admitted fact that due to the delay in filing of the appeal by 193 days, the Ld. CIT(A) / NFAC did not condone the delay on the ground that the assessee could not explain any reasonable cause for such delay in filing of the appeal. It is the submission of the Ld. Counsel for the assessee that in the interest of justice the assessee should be given an opportunity to substantiate his case by filing the requisite details before the Ld. CIT(A) / NFAC. It is also his submission that in view of various decisions, a small delay of 193 days in filing of the appeal before the Ld. CIT(A) / NFAC should have been condoned by the Ld. CIT(A) / NFAC and he should have adjudicated the appeal on merit.

9. We find the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. (supra) has held that 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. 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.

10. We find recently the Hon'ble Supreme Court in the case of Inder Singh Vs. The State of Madhya Pradesh reported in 2025 LiveLaw (SC) 339 has held as under:

“14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.”

11. Following the decisions of Hon'ble Supreme Court cited (supra) and considering the totality of the facts of the case and in the interest of justice, we are of the considered opinion that the Ld. CIT(A) / NFAC should have condoned the delay and decided the issue on merit. We, therefore, set aside the order of the Ld. CIT(A) / NFAC and restore the issue back to his file with a direction to condone the delay in filing of the appeal by the assessee and decide the appeal on merit as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to participate in the appeal proceedings and submit

the requisite details before the Ld. CIT(A) / NFAC on the appointed date without seeking any adjournment under any pretext, failing which the Ld. CIT(A) / NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

12. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 28th November, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER
पुणे Pune; दिनांक Dated : 28th November, 2025
GCVSR

Sd/-
(R. K. PANDA)
VICE PRESIDENT

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	27.11.2025		Sr. PS/PS
2	Draft placed before author	28.11.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			