

IN THE INCOME TAX APPELLATE TRIBUNAL “J (SMC)” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 6317/Mum/2025
(Assessment Year: 2020-21)

Yudhishtir Cooperative Housing Society Ltd. Anand Nagar, N.L. Complex Dahisar (East), Mumbai- 400 068	Vs.	ITO ward, JAO Mum-W-42(1)(4) Kautilya Bhavan, Bandra East, Mumbai- 400051
PAN/GIR No. AAAAY4170G		
(Appellant)	:	(Respondent)

Assessee by	:	Shri Vidyadhar Khandekar, CA
Respondent by	:	Shri Aditya Rai (SR. DR)

Date of Hearing	:	03.12.2025
Date of Pronouncement	:	08.12.2025

ORDER

Per Kavitha Rajagopal, J M:

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals), Panchkula ('ld. CIT(A)' for short), passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2020-21. The assessee has challenged the order of Ld. CIT(A) on the ground that the Ld. CIT(A) has dismissed the appeal filed by the assessee by not condoning the delay of 1239 days in filing the first appeal, for the reasons that the assessee has failed to substantiated that there was "sufficient cause" for the delay in filing the appeal before the first appellate authority.



2. Briefly stated the assessee is co-operative housing society which derives income from investments/deposits with co-operative banks and nationalized banks. The assessee filed its return of income for the year under consideration and the same was processed u/s. 143(1) of the Act where the CPC issued intimation dated 25.11.2021 making a disallowances of deduction claimed u/s 80P(2)(d) of the Act amounting to Rs.6,62,887/- being the interest income derived from the investments made in various cooperative banks registered under the Maharashtra Co-operative Societies Act, 1960. Aggrieved by the intimation order passed u/s 143(1) of the Act, the assessee was in appeal before the first appellate authority who vide order dated 07.08.2025 dismissed the appeal filed by the assessee *in limine* by not condoning the delay of 1239 days for filing the appeal before the first appellate authority beyond the period of limitation. Aggrieved the assessee is in appeal before us challenging the order of Id. CIT(A).
3. We have heard rival submissions and perused the material available on record. It is observed that the assessee has filed the appeal challenging the intimation order passed u/s 143(1) of the Act by CPC/AO which was filed belatedly with a delay of 1239 days. The assessee has specified that the delay was on account of wrong advice of the Chartered Accountant and the same was substantiated by an affidavit filed by the CA admitting that the cause of delay was not attributable to the assessee. Further, it is contended that there was no malafide intention or negligence on the part of the assessee in filing the appeal belatedly before the Ld. CIT(A). The Ld. CIT(A) rejected the assessee's contention stating that the assessee did not have "sufficient cause" for the



inordinate delay in filing the appeal, thereby dismissing the appeal filed by the assessee without getting in the merits of the case.

4. Before us the Ld. Authorized Representative (Ld. AR for short) for the assessee contended that the assessee did not receive section 143(1) order in its registered mail ID which fact also emanates from the order of Ld. CIT(A), before whom the assessee has raised the same. Further, Ld. AR stated that the assessee has filed rectification application for both the AY 2020-21 and 2021-22 where the rectification application for AY 2021-22 was also allowed subsequently. Ld. AR further stated that since the assessee's rectification application for AY 2021-22 was allowed in favour of the assessee, the tax consultant was of the view that the rectification application for the AY 2020-21 i.e. year under consideration would also be allowed in the favour of the assessee and hence, the appeal was not filed within the period of limitation. The Ld. AR reiterated that the delay in filing the appeal before the Ld. CIT(A) was not wanton or deliberate and therefore prayed that the matter be remand back to the Ld. CIT(A) for de-novo adjudication as the assessee is said to have a good case on the merits. The Ld. Department Representative (Ld. DR for short) vehemently opposed to setting aside the issue to the file of the Ld. CIT(A) for the reasons that there was inordinate delay in filing the appeal before the Ld. CIT(A) and that the reasons specified by the assessee cannot be said to be "sufficient cause" for condoning the delay and prayed that the assessee's appeal be dismissed.
5. On perusal of the above facts, we are of the considered opinion that assessee may be given one more opportunity to present its case before the Ld. CIT(A) after duly



condoning the delay in filing the first appeal, for the reason that Hon'ble Apex Court and various High Courts have taken a liberal view in condoning the delay in filing the appeal, wherein it has been held that the same is mere procedural defect and that the substantial issue has to be decided based on the merits of the case. We are also conscious of the fact that there was an inordinate delay on the part of the assessee in filing the first appeal, for which we deem it fit to impose a cost of Rs. 10,000/- which the assessee will have to pay to the Prime Minister Relief Fund within 30 days from the receipt of this order and to duly file the acknowledgment of the same before the Ld. CIT(A). The Ld. CIT(A) is directed to decide the issue on the merits of the case after giving sufficient opportunity of hearing and the assessee is also directed to strictly adhere to the proceeding before the Ld. CIT(A) without any undue delay from its side.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 08.12.2025

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 08.12.2025

Disha Raut, Stenographer

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai