

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(HYBRID COURT)

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

I.T.A. No. 290/Asr/2025
Assessment Year: 2019-20

Sanatan Dharam Sabha,
Mukerian, Hoshiarpur
Punjab-146001

Vs.

Income Tax Officer
Ward (Exemptions),
Jalandhar

[PAN: AANAS 3147A]

(Appellant)

(Respondent)

Appellant by : Sh. P. N. Arora, Adv.
Respondent by : Sh. Charan Dass, Sr. D. R.
Date of Hearing : 12.11.2025
Date of Pronouncement : 10.12.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the ld. Addl./JCIT(A)-1, Bengaluru dated 12.03.2025 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, CPC, Bengaluru passed u/s 143(1) of the Act, dated 02.02.2021.

2. There are six grounds of appeal taken by the assessee in Form No. 36 but the main grievance of the assessee relates to the facts that the Id. first appellate authority has dismissed the appeal without adjudicating the grounds contained in Form No. 35 by dismissing the appeal without condoning the delay of 1275 (one thousand two hundred seventy-five) days in filing before the Id. first appellate authority.
3. Brief facts emerging from records are that the assessee is registered u/s 12/12AA of the Act and has claimed exemptions u/s 11 which has not been allowed by the CPC, Bengaluru due to the reasons that the statutory audit report in Form No. 10B which was supposed to be filed (uploaded in the portal) has not been filed within the proper time, resulting in disallowance of *Rs.2.17 crores* as per order which has resulted in a tax demand of *Rs.1.28 crores* u/s 143(1).
4. The appeal filed before the Id. first appellate authority has been dismissed in *limine* without any adjudication on merits of the case, refusing to condone the delay in filing this appeal by *1275 days*, where the appellate authority has refused to admit the appeal for adjudication on merits as per provisions of section 249(3) of the Act for not presenting the appeal within the prescribed time by observing as follows, (reproduced from CIT(A) orders):

“4.2. The decisions of the Hon'ble Courts in the above-mentioned cases are squarely applicable in the Appellant's case. In the instant case the Appellant has not given any

satisfactory explanation for delay in filing of the appeal other than merely stating that the Appellant was not aware of the demand raised and therefore the Appellant was unable to file the Appeal on time. It may be pertinent to note that the Income Tax Department issues notices at the addresses available in the PAN database provided by the Tax Payers. Any change in the address is to be intimated to the Department at the earliest. Moreover, the Appellant is also a Trust and therefore they should have been more aware about the statutory provisions pertaining to tax related matters. Further on verification of the e-filing portal it is clear that the Appellant has regular access to the portal and filed the subsequent years Return of Income as well. Therefore, the reason given by the Appellant is not acceptable.

5. From the facts of the case, it is clear that the statutory right to appeal which was vested with the appellant was not exercised within the stipulated time u/s. 249(2). Thus, this clearly is a case of laches and is directly the result of inaction of the part of the appellant. The reason given for delay is not persuasive enough to permit its condonation. In light of the foregoing, it is held that the appellant has no "sufficient cause in terms of section 249(3) of the Act, for not presenting the appeal within the prescribed period. It is well-settled that an appellant is not entitled to the condonation as a matter of right. For an appellant to succeed, the existence of sufficient cause is sine qua non and a condition precedent. It is manifestly evident that this ingredient is woefully lacking in these belated appeals. Accordingly, the delay in filing the appeals is not condoned. The appeal is dismissed without any discussion on merits of on any other aspect.

6. In the result, appeal is treated as dismissed."

5. Now, the assessee is before the Tribunal and in course of hearing, the Id. AR of the assessee has submitted that the main issue in this case relates to the disallowance of the claim made by the assessee u/s 11 for non-filing of audit report in *Form No. 10B* within the stipulated time frame as prescribed under the provisions of the Act. He further submitted that *Form No. 10BB* was duly uploaded in the portal on 31.10.2019

which was subsequently revised on 01.10.2020 and the Income Tax return filed was assessed u/s 143(1) on 2nd February, 2021 on the basis of the return, but the audit report in Form 10BB which was already on record has not been considered for the purpose of assessment.

6. He further submitted that there was delay in filing the appeal before the Id. first appellate authority which has been explained by way of an affidavit filed by one *Sh. Rajesh Kumar* who is the manager of the Trust who has explained that one *Mr. Aditya Jain* was looking after the taxation work of the assessee and he was the person who uploaded the income tax return and the audit report but unfortunately, he has failed in his professional duties by not uploading the proper form 10B which has resulted in the disallowance of the claim u/s 11 of the Act, 61. Subsequently, he submitted that they have appointed a new C.A. *M/s. D. K. Sharda & Associates* in place of his earlier CA *Mr. Aditya Jain* and it was *M/s. Sharda* who advised them to file the appeal before the Id. CIT(A) which has been subsequently filed with a delay of 1275 days. But unfortunately, the said delay has not been condoned and the appeal has been dismissed in *limine*.

7. He further submitted that it was incumbent on the part of the Id. first appellate authority to allow the assessee a reasonable opportunity of being heard before rejecting the appeal u/s 249(3) of the Act so that the assessee if provided an opportunity could

have properly explained the reasons for delay and the ld. first appellate authority was not legally justified in refusing to entertain the appeal without allowing a reasonable opportunity to the assessee to explain the cause of delay.

8. The ld. DR relied on the order of the ld. CIT(A) but has no objection, if the matter is remanded back to the ld. first appellate authority for considering the reasons for delay on merits.

9. We have heard the rival submissions and considered the materials on record and we find that there has been a delay of *1275 days* in filing the appeal before the ld. first appellate authority and before refusing to admit the appeal and rejecting the same on account of delay u/s 249(3) of the Act, the ld. CIT(A) should have allowed an opportunity of hearing to the assessee to explain the reasons and cause of this delay.

10. As such, in the interest of justice, we remand the matter back to the files of the ld. first appellate authority to allow the assessee one opportunity to explain the reasons and cause of this delay of 1275 days and if it is found to be satisfactorily explained then the ld. CIT(A) may proceed further to dispose of the appeal on merits of the case, by adjudicating on the grounds contained in Form No. 35.

11. We have not expressed any opinion on the reasons for the delay in filing the first appeal and we leave the same to be considered by the ld. first appellate authority as per explanations to be put forth by the assessee.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 10.12.2025

Sd/-
(Manoj Kumar Aggarwal)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order