

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 297/GTY/2025
Assessment Year: 2014-15

I.T.A. No. 298/GTY/2025
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Assessment Year: 2014-15

&

I.T.A. No. 300/GTY/2025
Assessment Year: 2015-16

Shibu Roy,

Ganga Para, Rongpur,
Cachar (Assam)-788009
[PAN: ALQPR2542D]

.....**Appellant**
vs.

ITO, Ward-1, Silchar,

Aayakar Bhawan, PWD Road,
Silchar (Assam) - 788001

..... **Respondent**

Appearances by:

Assessee represented by : Sanjay Mody, FCA
Department represented by : Sanjay Jha, JCIT

Date of concluding the hearing : 03.12.2025

Date of pronouncing the order : 03.12.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. This is a batch of 4 appeals pertaining to the same assessee through which the impugned orders have been challenged as under:

(a) ITA No. 297/Gty/2025

The Ld. Commissioner of Income Tax (Appeals) (hereafter “the Ld. CIT(A)], vide order dated 07.08.2025, passed against the order of Ld. AO under Section 147 read with section 144 of the Income Tax Act, 1961 (hereafter “the Act”).

(b) ITA No. 298/Gty/2025

The Ld. CIT(A) vide order dated 07.08.2025, passed the impugned order against the order under Section 271B of the Act of the Ld. AO.

(c) ITA No. 299/Gty/2025

The Ld. CIT(A) through order dated 07.08.2025, passed the impugned order in response to order under Section 271(1)(c) of the Act passed by the Ld. AO.

(d) ITA No. 300/GTY/2025

The Ld. CIT(A) has passed an order dated 07.08.2025 against the order under Section 147 read with section 144 of the Act passed by the Ld. Assessing Officer.

1.1 In all these 4 appeals, the common ground is that there was delay in filing of appeals ranging from 58 days to 758 days before the Ld. CIT(A) as under:

(a) ITA No. 297/Gty/2025- delayed by 758 days (reasons given by the assessee for the said delay are at pages 4 and 5 of the impugned order).

(b) ITA No. 298/Gty/2025 – There was a delay of 581 days in the filing of the first appeal (reasons given by the assessee are at pages 4 and 5 of the impugned order).

(c) ITA No. 299/Gty/2025 – There was a delay of 577 days in the filing of the first appeal (reasons given at pages 3 and 4 of the impugned order).

(d) ITA No. 300/Gty/2025 – There was a delay of 58 days in the filing of first appeal (reasons given at pages 4 and 5 of the impugned order).

1.2 In all these cases, the assessee has offered similar reasons for explaining the delay and had requested for condoning the same at first appeal stage. For the sake of convenience, the reasons given through an affidavit in ITA No. 297/Gty/2025 are extracted for reference:

“I, SHIBU ROY, son of LATE NIRANJAN ROY, aged about 49 years, a resident of GANGAPARA, RONGPUR, SILCHAR in the District of Cachar. Assam -788 009 do hereby solemnly affirm, declare and swear as hereunder

1. That I am assessed to income-tax under PAN: ALQPR2542D.

2. That my education is under matric. I cannot properly understand English language. I have no knowledge of computer and I am dependent on other for communication through emails.

3. I am a small businessman engaged in the business of Sabjee | Green Vegetable) and for my Income Tax matter I am dependent on other

4. Earlier my Income Tax matter were look after by an accountant name by Sri Jagat Paul and he has given his own email ID for communication with the department.

5. He never informed me about receipt of notices or order from Income Tax Department earlier. However on 17.05.2024 only he inform me about receipt of demand notice for the AY 2015-2016. Thus our relationship became is strained.

6. Consequently I have appointed a new Accountant namely Rathindra Kumar Das for looking after my Income Tax matter and for filling appeal for AY 2015-2016.

7. When the new accountant was filling appeal for the AY 2015-2016 he informed me about raising of demand for the AY 2014-2015 niso on 26-05-2024. Thus when I became aware of raising of demand against me, I filed appeal immediately without any delay.

8. Thus delay of filling of the appeal was because of above circumstances and the delay was not willful. I pray that the above delay so caused may kindly be condone.

9 That the statements made in para 1 to 8 hereinabove are true to my knowledge, belief and information.”

1.3 In all these cases, the Ld. CIT(A) has relied on several authorities and has held that the grounds seeking condonation of delay were not sufficient enough to be considered for relief as per the provisions of section 249(3) of the Act.

2. Before us, the Ld. AR mentioned that the assessee was not conversant with taxation laws and was entirely dependent on his tax consultant, who was also supposed to receive the notices and respond to them appropriately. The Ld. AR pleaded that ignorance of tax procedures and incompetency of the tax consultant should not be used to penalise an assessee when he has admittedly done the right thing by at least filing the first appeal and also giving an affidavit laying out the extenuating circumstances due to which there was delay in filing of the said appeals. The Ld. AR prayed for one more chance to the assessee to present the facts, at least first at appeal stage, through remitting the matter back to the file of Ld. CIT(A).

2.1 The Ld. DR relied on the orders of authorities below but fairly stated that the ITAT could consider the reasons for delay and pass an appropriate order.

3. We have carefully considered the submissions of Ld. AR/DR and have gone through the facts of the case, including the affidavits filed at first appeal stage. We have also perused the contents of the paper book filed by the Ld. AR. It is a settled position of law that while the duration of delay could be a material factor in deciding whether the same deserves to be condoned or not but the more important factor would be the reasons for the said delay. In this case, we are considerably persuaded by the arguments of the Ld. AR, the written submissions presented before us and the case relied upon by him, to come to the conclusion that the delay deserves to be condoned in this case. At this stage, we need to remind ourselves of the critical pronouncements by the Hon'ble Apex Court on the

subject of “sufficient cause”. In Collector, Land Acquisition Anantnag v. Mst. Katiji AIR 1987 SC 1353, the Supreme Court has observed that the message with regard to a liberal approach does not appear to have percolated down to all the other Courts in the hierarchy. As per the Hon’ble Court, the following guidelines should be borne in mind while interpreting the concept of “sufficient cause”:-

- [1] The Litigant does not stand benefited by lodging an appeal late;
- [2] Refusal to condone may result in meritorious matters being thrown out at the very threshold and the cause of justice being defeated;
- [3] In the matter of explanation of a very day's delay, pedantic approach should be avoided. Rational common sense, pragmatic approach should be invariably adopted;
- [4] Substantial justice is to be preferred against technical flaws;
- [5] There is no presumption that delay is always deliberate; and
- [6] Injustice is to be removed.

In another decision from the Hon’ble Supreme Court on the issue of condonation of delay, the important and strategic aspects that have to be kept in view in deciding the cases relating to condonation of delay have been succinctly summed up in the case of Esha Bhattacharjee Vs. Managing Committee of Raghunathpur, Nafar Academy (2013) 5 CTC 547; the relevant portions are extracted below for convenient reference:-

"15. From the aforesaid authorities, the principles that can broadly be culled out are:

[i] There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay for the courts are not supposed to legalise injustice but are obliged to remove injustice.

[ii] The term 'sufficient cause' should be understood in its proper spirit, philosophy and purpose regard being had to the fact that this term is basically elastic and is to be applied in proper perspective to the obtaining fact situation.

[iii] Substantial justice, being paramount and pivotal, the technical considerations should not be given undue and uncalled for emphasis.

[iv] No presumption can be attached to deliberate causation of delay but gross

negligence on the part of the counsel or litigant is to be taken note of.

[v] Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

[vi] It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

[vii] The concept of liberal approach has to encapsule the concept of reasonableness and it cannot be allowed a totally unfettered free play.

[viii] There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted, whereas, to the latter, it may not be attracted. That apart, 3/5 the first one warrants strict approach, whereas the second calls for a liberal delineation.

[ix] The conduct, behaviour and attitude of party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach.

[x] If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

[xi] It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

[xii] The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion, which is founded on objective reasoning and not on individual perception.

[xiii] The State or a public body or an entity, representing a collective cause, should be given some acceptable latitude.”

Also, in the case of Vidya Shankar Jaiswal reported in 174 taxmann.com 21 (SC), order dated 31.01.2025, the Hon'ble Supreme Court in a recent judgement has mandated a justice-oriented approach and has advocated that a liberal view should be taken while dealing with matters of condonation of delay.

3.1 Considering the totality of facts and circumstances of the case, and the authorities discussed above, the impugned order is set aside and the delay is hereby condoned. We now remand all these 4 matters back to the file of Ld. CIT(A) for fresh adjudication, after giving an opportunity of being heard to the assessee.

4. In result, these appeals are partly allowed for statistical purposes.

Order pronounced on 03.12.2025

Sd/-

[Manomohan Das]
Judicial Member

Sd/-

[Sanjay Awasthi]
Accountant Member

Dated: 03.12.2025

AK, Sr. PS

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches