

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

**SHRI DUVVURU RL REDDY, VICE PRESIDENT**  
**SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 47/GTY/2025
Assessment Year : 2018-19

<b>Shiwaji Pd. Jaiswal,</b> C/o Pashupati Enterprise, G.S. Road, Jorabat (Assam) - 793101 [PAN: ASEPS6242E]	Vs.	<b>Deputy Commissioner of Income Tax, Circle-1</b> Aayakar Bhawan, Christian Basti, G.S. Road, Assam - 781005
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Ramesh Goenka, Advocate
Revenue by	:	Shri Santosh Kumar Karnani, Addl. CIT

Date of hearing	:	07.01.2026
Date of Pronouncement	:	19.01.2026

**ORDER**

**PER LAXMI PRASAD SAHU, ACCOUNTANT MEMBER:**

This is an appeal filed by the assessee against the order passed u/s 250 of the Income Tax Act, 1961 (hereafter "the Act") by the Ld. Commissioner of Income Tax (Appeals), Additional/Joint Commissioner of Income Tax (Appeals) – 1, Delhi [hereafter "the Ld. Addl./JCIT(A)] dated 11.12.2024, DIN & order No. ITBA/APL/S/250/2024-25/1071104128(1) challenging the appellate order for not condoning the delay of 1862 days and not deciding the issue on merits.

2. Briefly stated the facts of the case are that the assessee filed return of income on 30.09.2018 declaring gross total income of Rs. 10,17,148/-. The return was processed on 30.07.2019 making the addition of Rs. 32,67,767/- as per the tax audit report uploaded along with the return of income. In Form No. 3CD clause 26(B)(b), (a), (b), (c), (d), (e), (f) or (g) of Section 43B of the Act on 29.02.2020. The assessee filed its disagreement with the demand raised by the CPC of Rs. 14,07,370/- later on in the third week of December 2024, the assessee received phone calls from the departmental authorities for payment of the aforesaid tax demand. Thereafter, the assessee took immediate action and revised the tax audit report for the impugned A.Y., the figures reported on 20<sup>th</sup> December 2024 under-clause 26(A)(b). Thereafter, the assessee filed appeal on 14.10.2024 before the Ld. CIT(A) explaining the reason for delay in filing the appeal of 1862 days delay which is as under:

*“Dear Sir,*

*Sub: Prayer for condonation of delay in filing appeal for the assessment year 2018-19 against the Assessment Order issued U/s. 143(1) of the Income Tax Act, 1961.*

*PAN: ASEPS6242E*

*Most respectfully, the appellant begs to submit that the Intimation U/s. 143(1) of the Income Tax Act, 1961 (here-in-after referred to as 'Act') which is the subject matter of the instant appeal, was issued on 30.07.2019.*

*That vide the aforesaid Intimation dated 30.07.2019, an amount of Rs. 32,67,767/- was disallowed U/s. 43B of the Act and added back to the Total Income of the appellant due to an inadvertent mistake in the Tax Audit Report which was filed on 17.08.2018. However, the appellant, being unaware of the inadvertent mistake in the Tax Audit Report, mistook the aforesaid disallowance to be a technical defect in the automatic processing of ITRs by the CPC, and on 29.02.2020, filed a response on the e-Filing Portal vide Transaction Id 8419941941, disagreeing with the demand so raised*

*Subsequently, sometime in the 3rd week of September, 2024, the appellant received a phone call from the departmental authorities for payment of the aforesaid demand. The appellant then consulted his tax consultant who brought to the knowledge of the appellant, the inadvertent error in the Tax Audit Report.*

*Thereafter, immediate steps were undertaken to file the instant appeal, and the Tax Audit Report for the A.Y. 2018-19 was also revised and filed on 20.09.2024 correctly reporting the aggregate amount of Rs. 32,67,767/- in the Tax Audit Report. Therefore, the delay in filing this appeal was not at all deliberate/intentional.*

*Moreover, a perusal of the Statement of Facts and Grounds of Appeal, alongwith the original and revised Tax Audit Report, as enclosed with the instant appeal would show that the disallowance made to the total income of the appellant has resulted in double taxation in the hands of the appellant, and is therefore, liable to be deleted.*

*That this appeal ought to have been filed on or before 29.08.2019. Thus, there is a delay of 1862 days. However, the delay in filing this appeal is not due to any malafide on the part of the appellant but due to the appellant being under the impression that no appeal was required to be filed since the demand raised on him was due to some technical defect in the automatic processing of ITRs by the CPC. The appellant was unaware of the inadvertent error in the Tax Audit Report.*

*Under the circumstances, it is prayed that the delay in filing this appeal may kindly be condoned and it be admitted for hearing for doing substantial justice in this matter. In this connection, reliance is placed on the judgement of the Hon'ble Supreme Court in the case of Collector, Land Acquisition Vs. Mst. Katiji (1987) 167 ITR 471 (SC)."*

3. During the course of appellate proceedings, the assessee submitted written submissions ground wise which are reproduced by the Ld. CIT(A). After considering the submissions of the assessee, the Ld. CIT(A) observed that the delay in filing appeal before him for 1862 days delay is excessive and unexplained to a satisfactory degree and relying on the judgment of Collector, Land Acquisition vs Mst. Katiji, (1987) 167 ITR 171 (SC), the same judgment was also relied by the assessee and he dismissed the appeal of the assessee without going into the merits of the case.

4. Aggrieved from the above order, the assessee filed appeal before the ITAT.

5. The Ld. Counsel for the assessee reiterated the submission made before the Ld. CIT(A) explaining the reasons cited hereinabove and there

was no malafide intention of the assessee for non filing appeal within the due date. The Tax Auditor had reported wrongly in Form No.3CD. at clause No. 26(B)(b) of section 43B of the Act. However, there was no any mistake whenever he came to notice the tax audit report was revised e and rectified the mistake, therefore, there is no prejudice to the revenue, if it is not allowed the mistake committed by the tax auditor for wrong reporting was not decide correctly then it will be double taxation to the assessee which is prohibited in the income tax law. Therefore, the justification should be rendered in favour of the assessee and the Ld. CIT(A) ought to have condoned the delay of 1862 days.

6. On the other hand, the Ld. DR relied on the order of Ld. CIT(A) for not condoning the delay, the assessee was aware of the demand raised by the CPC, the assessee was disagreeing with the demand and filed on 29.02.2020. Therefore, the assessee could have filed the appeal when the demand notice/intimation was received by the assessee immediately and these inordinate delay in filing the appeal should not be condoned and requested that the order of the Ld. CIT(A) should be uphold.

7. Considering the rival submissions and perusing the materials available on record and order of authorities below. We noted that the return was processed under Section 143(1) of the Act on 30.07.2019, where there is a disallowance of Rs. 32,67,767/- and demand was raised for Rs. 14,07,370/- and the assessee was disagreeing with the demand raised by the CPC as per the filing portal dated 29.02.2020, the assessee filed appeal after calling for payment of tax demand and due to error in the tax audit report uploaded by the Chartered Accountant. Later on 20<sup>th</sup> December 2024 rectifying the tax audit report which was uploaded earlier by Chartered Accountant filed the figure in clause 26(B)(b) (a), (b), (c), (d), (e), (f) or (g) of Section 43B of the Act. Now on 20<sup>th</sup> December 2024. The Form No. 3CD was revised and the figures were correctly reported

under clause 26(A)(b) of clause (a), (b), (c), (d), (e), (f) or (g) of Section 43B of the Act. During the course of appellate proceedings, the assessee furnished detailed of the figures for the last three assessment years. The assessee did not filed appeal against the intimation order under Section 143(1)(a) of the Act against the processing of the order and when he received call from the income tax department immediately, he took step for filing appeal. Accordingly, a delay of 1862 days. During the course of appellate proceedings before the Ld. CIT(A), the assessee has submitted detailed reasons noted supra and relied on the judgement of Hon'ble Apex Court in the case of Collector, Land Acquisition, Vs. Mst. Katiji cited supra and the Ld. CIT(A) has relied on the same judgment also. As per our consider opinion the delay of filing appeal ought to have been allowed by the Ld. CIT(A) because the mistake was done by the Chartered Accountant for wrong reporting in Form No. 3CD which was not the intention of the assessee as the assessee was depend on the tax professionals and he was in conscious that the tax auditor has correctly reported the figures in Form No. 3CD. Therefore, the assessee had reasonable cause for filing appeal with delay. In support of our decision, we rely on the judgment of ITAT, Bangalore in the case of Well Trader Vs. DCIT, ITA No. 1264/Bang/2024 for A.Y. 2020-21 in which various other judgments have been referred and it has been held that the assessee had a reasonable cause, therefore, we respectfully following the above judgment and considering the facts of the case and interests of justice, we are remitting this issue back to the file of Ld. CIT(A) for fresh consideration and decide the issue as per law after giving reasonable opportunity of being heard to the assessee. The assessee is directed to substantiate his case with cogent documents in support of his case and not to seek unnecessary adjournments for early disposal of the case. In case of failure, no second leniency shall be granted to the assessee.

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

Order pronounced on 19.01.2026

Sd/-  
**(Duvvuru RL Reddy)**  
**Vice President**

Sd/-  
**(Laxmi Prasad Sahu)**  
**Accountant Member**

Dated: 19.01.2026

AK, Sr. P.S.

*Copy of the order forwarded to:*

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

//True copy//

By order

Assistant Registrar, Kolkata Benches