

**IN THE INCOME TAX APPELLATE TRIBUNAL
LUCKNOW 'B' BENCH, LUCKNOW
BEFORE SH. KUL BHARAT, VICE PRESIDENT
AND
SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.101/LKW/2024

A.Y. 2013-14

Krishi Utpadan Mandi Samiti, Rura, Kanpur Dehat	vs.	CPC, Bangalore ITO (Exemption), Kanpur
PAN: AAAAK5660K		
(Appellant)		(Respondent)

Assessee by:	Ms. Shweta Mittal, C.A.
Revenue by:	Sh. R.R.N. Shukla, Addl CIT DR
Date of hearing:	28.10.2025
Date of pronouncement:	13.01.2026

ORDER

PER NIKHIL CHOUDHARY, A.M.:

This is an appeal filed by the assessee against the order of the Id. Addl/JCIT(A), Jodhpur passed under section 250 of the Income Tax Act, 1961 on 11.01.2024 wherein the Id. First Appellate Authority has dismissed the appeal of the assessee, as not maintainable, on account of the fact that it was filed after a delay of 1733 days. The grounds of appeal are as under:-

"1. The Ld. Commissioner of Income-tax (Appeals) has erred in law and on facts in passing the order, which is unlawful, unjustified and against the principles of natural justice.

2. The Ld. Commissioner of Income-tax (Appeals) has erred in law and in facts by considering the appeal delayed by 1733 days from the date of intimation order without giving an opportunity and denied the exemption u/s 10(26AAB) of Income-tax Act claimed by the appellant to which it is lawfully entitled even though no such claim was made in the return by mistake or ignorance of law of both the tax counsel and the appellant and upheld the addition of Rs. 83,93,620/- made illegally.

3. The appellant craves leave to add, amend, alter or withdraw any ground of appeal or raise any new ground of appeal during the pendency of appeal."

2. The facts of the case are that the Assessee Samiti filed a return of income at Nil on 17.09.2013 for the A.Y. 2013-14. The same was processed by the DDIT /

ADIT, CPC, Bengaluru under section 143(1) on 25.03.2015 at a total income of Rs. 83,93,620/- and tax demand of Rs.31,36,830/- was created. Subsequently, the assessee filed an appeal on 22.01.2020 i.e. after a delay of 1733 days. Before the ld. Addl /JCIT(A), it was contended that the ld. AO had erred in law and on facts in not granting exemption under section 10 (26AAB). The Addl / JCIT(A) observed that the time limit to file the appeal as provided under section 249(2)(c) of the Act was 30 days of the date on which the intimation of the order sought to be appealed against was served. However, in the present matter, the appeal was delayed by more than 4 years and 8 months. The ld. First Appellate Authority cited the decision in the case of Senior Bhonsle Estate (HUF) vs. Assistant Commissioner of Income Tax [2019] 419 ITR 732 (SC), to hold that for condonation of delay, the litigant had to show, 'sufficient cause'. However, in the present case, he noted that the assessee had not made any submissions for the justifying the substantial delay in the filing of the present appeal as Column No. 14 of Form 35 had been left blank. He also pointed out that several notices were issued to the assessee during the course of appeal but the assessee had failed to file responses / clarification with relevant evidences to explain the substantial delay in the filing of the appeal. He pointed out that the Hon'ble Supreme Court in the case of Vedabhai alias Vaijayantabai Baburao Patil vs. Shantaram Baburao Patil [2002] 122 Taxman 114 (SC) had made a distinction between the delays that were trivial and cases where there were extraordinarily large delays. The ld. Addl / JCIT(A) held that in the present case since there was no sufficient cause to explain the delay, the appeal was not maintainable and he accordingly dismissed it as such.

3. The assessee is aggrieved at this order passed by the ld. Addl / JCIT(A) and has accordingly come before us in appeal. Smt. Shweta Mittal, C.A. (hereinafter referred to as the ld. AR) appearing on behalf of the assessee invited our attention to the detailed submission filed by her in the paper book pointing out the reasons for the delay in the appeal filed before the ld. CIT(A). She also invited our attention to the affidavit sworn by the Secretary of the Samiti. It was submitted that the delay was primarily on account of the fact that the appellant was unaware of the

intimation order issued under section 143(1) dated 25.03.2015 as it never received its copy. It was submitted that the assessee Samiti was located in a rural area. At the time, the Assessee Samiti was not equipped with computers and it did not have any internet connection. Furthermore, there were frequent power outages lasting approximately 8 to 9 hours during the day. Additionally, the employees of the Assessee Samiti were not tech savvy and executed all their work manually. Due to such reasons, there was no email address maintained by the Assessee Samiti and therefore, the tax professionals appointed for return filing by the Mandi Parishad use their personal credentials on the Income Tax portal. Furthermore, the Assessee Samiti was not well versed with the provisions of the Income Tax Act and was entirely dependent on the Income Tax counsel for filing of the Income Tax returns and other tax related matters. It was submitted that the educated work force of the Samiti at that time, only comprised of a Sachiv, one Clerical staff and one Mandi Inspector, who were entrusted with duties of collection of Revenue through field work, issuing receipts, handling farmers redressals etc,. As all the work was executed manually, no computers were installed and neither were the staff competent to use the same. Further, the post of Sachiv often functioned on additional charge. It was only in the year 2018, that a computer was installed and for the same a part time computer operator was appointed. However, he was not entrusted to handle tax matter of the Samiti. Moreover, due frequent electrical outages and lack of internet connection, the Samiti did not have an official email address. Resultantly, the communications made by the Income Tax Department never came to the knowledge of the Mandi Samiti and remained with the counsels. For the aforesaid reasons, the Appellant Samiti became aware of the demand raised in the assessment year 2013-14 only in January, 2020 when it was pointed out by the Income Tax counsel, who was appointed for filing of the ITR of assessment year 2019-20. Consequently, the appeal before the Id. CIT(A) was filed in the same month upon becoming aware of the demand i.e. on 22.01.2020. Since, the processing order was not available with the assessee till that time, the appeal was filed against the computation sheet that was available on the e-filing portal. It was prayed that the date of communication

was therefore, the date on which it came to the knowledge of the Samiti that the demand had been raised by the Revenue by not accepting the returned income of 2013-14. Accordingly, it was prayed that the delay of 1733 days may kindly be condoned because the assessee did not benefit in any way from delaying the appeal, nor was the appeal filed on re-consideration but because of the aforesaid circumstances. For this proposition, the assessee relied upon the cases of N. Balakrishnan vs M. Krishnamurthy AIR 1998 SC 3222 and also submitted that the length of the delay was not material in condoning it. It was the cause of the delay that had to be considered as held by the Hon'ble Supreme Court in the case of Nand Kishore vs. State of Punjab (1955) 6 SCC 614. Furthermore, it was submitted that the assessee was eligible for exemption under section 10 (26AAB) of the Income Tax Act as it was constituted under the Notification No. H-6357/12-B-1200/(192)-69 dated 1.01.1972 issued by the Government of Uttar Pradesh under section 5 r.w.s. 6 of the Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 for the purposes of regulating of marketing of agricultural produce. Thus, its entire income was exempt under section 10 (26AAB). It was further pointed out that in the case of Krishi Utpadan Mandi Samiti, Tikonia, which was incorporated under the same act and whose objects and activities were the same as the Appellant Samiti, the exemption had not been claimed under section 10 (26AAB) while filing the return of income and on processing of its return, addition was made under section 143(1)(a) of the Income Tax Act. However, the Hon'ble ITAT Lucknow vide M.A. No. 50/LKW/2018 dated 10.12.2018 had allowed the claimed exemption under section 10 (26AAB) of the Income Tax Act by setting aside the case to the file of the Id. Assessing Officer for factual verification. Furthermore, the ITAT Allahabad Bench in the case of Krishi Utpadan Mandi Samiti vide ITA Nos. 69 to 76 and 78 to 86/ALLD/2020 dated 18.11.2020 allowed the exemption under section 10 (26AAB) that was not claimed in the Income Tax Return by setting aside the case to the file of its Assessing Officer for factual verification only. It was submitted that the aforementioned orders of the Hon'ble ITAT were applicable to the case of the assessee also as all the Samitis were constituted under the same act and in all the above cases, due to the inadvertent mistake of the counsel, on whom the

assessee Samiti relied upon for preparation of filing of Income Tax Return, mistakes were made in the return alongwith incorrect claim of exemption under section 11, when the entire income was exempt under section 10 (26AAB) of the Income Tax Act. Under Article 265 of the Constitution of India, no tax could be levied or collected except by authority of law and this mistake by the counsel had led to raising of demand against the assessee and since the assessee was never informed about the passing of such order, it was not able to seek legal remedy at the appropriate time against this patently illegal demand. The assessee placed reliance on the decision of the case of Inder Singh vs. State of Madhya Pradesh wherein the Hon'ble Supreme Court had held that justice on merits should not be scuttled due to technicalities and it prayed that the delay of 1733 days in the filing of the appeal before the Id. CIT(A) should have been condoned and its case should have been heard on merits. Accordingly, the Id. AR prayed that the matter may be restored back to the file of the Id. AO so that the assessee could furnish the necessary evidences to demonstrate that its income was not taxable due the exemption enjoyed under section 10 (26AAB).

4. On the other hand, Sh. R.R.N. Shukla, Id. Addl CIT DR (hereinafter referred to as the Id. DR) opposed the prayer of the Id. AR pointing out that the delay of 1733 days was not explained by simply putting the blame on the counsel. The assessee should have been vigilant about its responsibilities and therefore, the Id. Addl / JCIT(A) were justified in dismissing the appeal on account of unexplained delay.

5. We have duly considered the facts and circumstances of the case. On account of the facts as narrated by the Id. AR in the petition filed as part of the paper book and in the affidavit sworn by the Secretary of the Samiti, we hold that there exists sufficient cause to explain the delay in the filing of the appeal before the Id. CIT(A). Further, we note that the assessee had made a specific prayer before the Id. Addl / JCIT(A) that its income was not liable to tax due to the exemption enjoyed by it under section 10 (26AAB). We observe that as per Article 265, no tax can be raised upon the assessee except according to the provisions and by the

authority of law and therefore, to reject the appeal on account of delay could result in levy of tax where none may have been required to have been levied. Accordingly, following the order of the ITAT Lucknow Bench in the case of Krishi Utpadan Mandi Samiti, Tikonia, Lakhimpur-Kheri and the ITAT Allahabad Bench in the case of Krishi Utpadan Mandi Samiti in ITA Nos. 69 to 76 and 78 to 86/ALLD/2020, we deem it fit in the interest of justice, we restore the matter back to the file of the Id. Assessing Officer with a direction to verify the claim of the assessee for exemption under section 10 (26AAB) and if they are found to be eligible for the same, to allow it even it was not claimed in the return of income. Since, the matter stands restored to the file of the Id. Assessing Officer, the appeal of the assessee is held to be allowed for statistical purposes.

6. In the result, the appeal of the assessee is allowed for statistical purposes.
Order pronounced on 13.01.2026 in the Open Court.

Sd/-
[KUL BHARAT]
VICE PRESIDENT

DATED: 13/01/2026

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT DR , ITAT,
4. CIT,
5. The CIT(A)

Sd/-
[NIKHIL CHOUDHARY]
ACCOUNTANT MEMBER

By order
Sr. P.S.