

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'SMC' BENCH , CHANDIGARH**

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT**

आयकर अपील सं./ ITA No. 1394/CHD/2025

निर्धारण वर्ष / Assessment Year: 2017-18

Shri Jatinder Kaura (Through L/H Smt. Dimple Kaura, House No. 338, New Green City, Raikot, Distt. Ludhiana.	Vs	The ITO, Ward-1, Jagraon.
स्थायी लेखा सं./PAN NO: AGWPK6095P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Kuldeep Singh, ITP & Shri MPS Malhotra, ITP  
Revenue by : Shri Vivek Vardhan, Addl. CIT Sr.DR

Date of Hearing : 22.01.2026  
Date of Pronouncement : 28.01.2026

**HYBRID HEARING**

**ORDER**

The assessee is in appeal before the Tribunal against the order of the Id. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 07.10.2025 passed for assessment year 2017-18.

2. The solitary grievance of the assessee is that Id.CIT (Appeals) has erred in not condoning the delay in filing appeal and upholding ex-parte assessment order dated 08.12.2019 which was passed against a deceased person.

3. The brief facts of the case are that AO has received an information that cash of Rs.12,60,000/- was deposited in a bank account No. 4605214000005 in Canara Bank, Raikot. Since there was no return of income at the end of the assessee, therefore, he issued a notice u/s 142(1) in the name of Shri Jatinder Kaura, who expired on 19.06.2015 but this notice was issued on 12.03.2018. The AO, thereafter passed the ex-parte assessment order u/s 144 on 08.12.2019. Since the Legal Heir was not aware about the proceedings, hence, she could not file the appeal. Ultimately appeal was filed on 04.05.2024 after a delay of 1608 days. The assessee has filed an application for condonation of delay pointing out therein that this notice was issued in the name of a deceased person and assessment has also been issued in the name of a deceased person which is an order void ab initio. The assessee made reference of a large number of cases but ld.CIT (Appeals) did not condone the delay and dismissed the appeal.

4. With the assistance of ld. Representative, I have gone through the record carefully. Shri Kuldeep Singh, ld. counsel for the assessee took me through a certificate of the bank

available on page No.3 of the Paper Book. He pointed out that bank has given a certificate that this account was opened on 17.07.2015. He made reference of third paragraph of this certificate/letter issued by the Bank dated 18.05.2022. I deem it appropriate to take note of third paragraph of this letter, which reads as under :

*“On 17.07.2015, Mr. Sandeep Kaura S/o Shri Rajan Kaura had approached the Branch for opening of current account with the same name i.e. Kaura & Co. (VAT registration number 03062004816), a new account with A/c number 4605214000005 was opened, while opening account of the new firm Kaura & Co., inadvertently customer ID of old firm Kaura & Co. was picked in which the PAN no. of Mr. Jatinder Kaura was linked.”*

4.1 The assessee, thereafter brought it to my notice that Shri Jatinder Kaura expired on 19.06.2015. Thus, this account was opened after the death of the assessee. He, thereafter, relied upon a large number of decisions referred in his written submissions. The part of the written submissions read as under :

*“7. As regard the assessee's plea that proceedings initiated and assessment completed in the name of deceased assessee are invalid , the assessee relies on the following case laws :-*

*i) Hon'ble Supreme Court in the case of **PCIT v. Maruti Suzuki India Ltd. (2019)** have held that a notice and subsequent assessment order issued in the name of a non-existent entity is **void ab initio** . This is considered a substantive jurisdictional defect, not a mere procedural irregularity that could be cured.*

*ii) Hon'ble Punjab & Haryana High Court have held in the case of **CIT Vs. Rakesh Kumar , Mukesh Kumar [2009]** (303 ITR 305) that the*

*reassessment proceedings initiated and assessments completed in the case on a dead person by the AO to be void ab initio.*

**iii) Hon'ble Delhi High Court have held in the case of *Savita Kapila Vs CIT (2020)***

*Reassessment notice issued to deceased person is invalid even if legal heir participated.*

*iv) Hon'ble Delhi HC in the case of *Vipin Walia Vs Income Tax Officer* has held that AO must issue fresh notice to legal heirs; old notice is void.*

**v) *Legal Heirs of Late Sh Virendra Kumar Bhatnagar (Deceased) Vs ACIT (Delhi High Court) : W.P.(C) 12215/2021 Date of Judgment: 09/11/2022***

*In the present case, the jurisdictional notice under Section 143(2) of the Act was issued against the dead person and the assessment order has also been passed against the dead person on his PAN , without bringing on record all his legal representatives, therefore, the said assessment order and the subsequent notices are null and void and are liable to be set aside.*

**vi) *Meet Lalwani, Legal Heir of Late Mrs. Amita Lalwani Vs ITO (Madhya Pradesh High Court) Appeal Number : Writ Petition No. 9697 of 2022 Date of Judgment 23/11/2023***

*In this case it has been held as under:-*

*" In view of the above and that various High Courts have observed that the notice issued to a dead person for reopening of assessment of a dead person is null and void, this Court holds that the notice and all consequential proceedings arising therefrom in the name of the deceased assessee are not sustainable."*

**vii) *The Gujarat High Court in case of *Bhupendra Bhikhhalal Desai v. ITO [2021]* have held that notice issued to a dead person is not valid. The said decision was also upheld by the honourable Supreme Court in *Income Tax Officer v. Bhupendra Bhikhhalal Desai, [2021]* (131 [taxmann.com](http://taxmann.com) 40) (SC).***

***In view of the above legal position and the case laws the assessment completed in the name of a deceased person, being legally invalid, deserves to be quashed.***

8. *As regard the assessee's plea that addition made on account of the cash deposits made in the said bank account is factually incorrect the copy of letter*

*submitted by Smt. Dimple Kaura legal heir, before the AO during assessment proceedings for the assessment year 2018-19, stating that the said bank account did not belong to the assessee and on the basis of which the assessment proceedings for that year were closed , is enclosed herewith , for ready reference . This letter states as under:-*

*"Before proceeding further , I wish to submit some important aspect in this regard.*

*(a) My husband Sh. Jatinder kaura expired on 19.06.2015 (Copy of death certificate enclosed).*

*(b) My husband Sh. Jatinder Kaura operated a sole proprietorship firm by the name of "M/s Kaura & Co" and to manage the affairs of the said firm, he had opened a bank account with the Canara Bank (A/c No. 4605201000031) on 17.06.2015, that is only 2 days before his death. Since the concern M/s Kaura & Co" was sole proprietorship in nature , nothing survived in it after his death. After the death, I have furnished the death certificate of my husband to the concerned bank and requested them to close the account . Since there was no transaction in the bank a/c No. 4605201000031 this account become dormant and was closed by the banker. The statement of this bank account No. 4605201000031 is enclosed for your reference reflecting meagre transaction in the account.*

*Furthermore, on enquiring from the Canara Bank branch about the alleged cash deposit by your department in the bank account of Sh. Jatinder Kaura, it has been informed by banker that on 17.07.2015, Sh. Sandeep Kaura, who is brother of my deceased husband had approached the branch for opening of current account with the same name i.e Kaura & Co. (VAT-Registration No. 03062004816). As per his request a new bank account No. 4605214000005 was opened. The banker has also informed that while opening this account of the new similar name concern the customer I D of the old concern was inadvertently picked, in which the PAN of Sh. Jatinder Kaura was linked. Upon my request the banker has issued a clarification letter that the new account number 4605214000005 does not belong to Sh. Jatinder Kaura , and the transactions in this account is owned by Sh. Sandeep Kaura having PAN .AFCPK9896B. I have requested the banker to provide the bank statement of this newly opened account by Sh. Jatinder Kaura, but they refused being the third party bank account statement. Therefore, it is requested to collect this bank statement by issuing notice/summons to the banker. Clarification letter dated 18.05.2022 issued by the banker is enclosed as evidence ".*

4.2 On the other hand, ld. DR was unable to controvert the contentions of the ld. counsel for the assessee.

5. Sub-section 5 of Section 253 contemplates that the Tribunal may admit an appeal or permit filing of memorandum of cross-objections after expiry of relevant period, if it is satisfied that there was a sufficient cause for not presenting it within that period. This expression sufficient cause employed in the section has also been used identically in sub-section 3 of section 249 of Income Tax Act, which provides powers to the ld. Commissioner to condone the delay in filing the appeal before the Commissioner. Similarly, it has been used in section 5 of Indian Limitation Act, 1963. Whenever interpretation and construction of this expression has fallen for consideration before Hon'ble High Court as well as before the Hon'ble Supreme Court, then, Hon'ble Court were unanimous in their conclusion that this expression is to be used liberally. We may make reference to the following observations of the Hon'ble Supreme court from the decision in the case of Collector Land Acquisition Vs. Mst. Katiji & Others, 1987 AIR 1353:

1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.
6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

6. Similarly, we would like to make reference to authoritative pronouncement of Hon'ble Supreme Court in the case of N. Balakrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123 dated 03.09.1998. It reads as under:

*“Rule of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finislitium (it is for the general welfare that a period be putt to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time. A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi lain Vs. Kuntal Kumari [AIR 1969 SC 575] and State of West Bengal Vs. The Administrator, Howrah Municipality [AIR 1972 SC 749]. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must*

*show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss”.*

7. In the light of above, if I peruse the peculiar circumstances of this case, then it is a fit case to condone the huge delay of more than 1608 days happened at the level of the Id.CIT (Appeals). The Id.CIT (Appeals) ought to have appreciated these facts in a right perspective. The quasi-judicial authorities are being respected not on account of their power to legalize the injustice on technical ground but because they are capable of removing injustice and are expected to do so. It is a classic case as to how injustice is being meted to a poor lady whose husband expired in 2015. The deceased has been burdened with an amount lying in an account which was never opened by him because the account was opened after the death of Shri Jatinder Kaura. The AO has neither appreciated the bank statement nor collected the details from the bank where Department deserves to be

burdened with heavy cost. But considering the contributory negligence at the end of the assessee of committing a delay of 1608 days, I restrict myself from imposing any cost upon the Revenue but the addition is not at all sustainable which has been made without verifying any facts. It is also pertinent to note that when there is a delay in filing the appeal before CIT (Appeals) then higher appellate authority would condone the delay and relegate the issue to the file of CIT (Appeals) for examining it on merit but looking to the approach of both the Revenue Authorities, I deem it myself to consider the issue on merit also and delete the addition. Therefore, I allow this appeal and delete the addition.

8. In the result, appeal of the assessee is allowed.

Order pronounced on 28.01.2026.

Sd/-

**(RAJPAL YADAV)**  
**VICE PRESIDENT**

“Poonam”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar