

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI R.K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.347/PUN/2025
निर्धारण वर्ष / Assessment Year : 2021-22

Mahratta Chamber of Commerce, Industries and Agriculture, 505, A Wing, MCCIA Trade Tower, Senapati Bapat Road, Pune-411016	Vs.	CIT(A), NFAC, Delhi
PAN : AAATM5559Q		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

Assessee by :	Shri Nikhil S. Pathak
Department by :	Shri Amol Khairnar
Date of hearing :	09-12-2025
Date of Pronouncement :	21-01-2026

आदेश / ORDER

PER ASTHA CHANDRA, JM :

The appeal filed by the assessee is directed against the order dated 13.12.2024 of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi [**CIT(A)/NFAC**] pertaining to Assessment Year (**AY**) 2021-22.

2. Briefly stated, the facts of the case are that the assessee is a company registered u/s 25 of the Companies Act, 1956 and functions as a service organization for development and promotion of trade, industry, commerce and agriculture and non-profit organization. It is registered u/s 12 of the Income Tax Act, 1961 (**the “Act”**) since 15.03.1976. For AY 2021-22, the assessee filed its return of income on 03.03.2022 declaring income of Rs. Nil claiming exemption u/s 11 of the Act and thereby refund of Rs.41,80,330/-. The case of the assessee was selected for scrutiny under CASS. Statutory notice(s) u/s 143(2) and 142(1) of the Act along with questionnaire were issued and served upon the assessee from time to time calling for information in support of return filed, followed by issue of show cause notice(s). As no response to the said notice(s) were received from the assessee, the Ld. Assessing Officer (**AO**) completed the assessment u/s 144 r.w.s. 144B of the Act vide his order dated

22.12.2022 determining the total income of the assessee at Rs.7,80,59,045/- in the manner below :

	Revenue from operation- As per I & E a/c		9,16,81,576/-
	Less : Expenses debited in I & E a/c		9,53,90,910/-
	Excess of expenditure over income- As per I & E a/c		(-) 37,09,334/-
Add	Disallowance u/s 40(a)(ia)- As discussed	63,47,809/-	
Add:	Amount written off –As discussed	21,04,530/-	
Add:	Capital Receipt not included in the I & E a/c- As discussed	4,90,76,007/-	
Add:	Accreted income u/s 115TD	2,42,40,033/-	8,17,68,379/-
	Assessed Total income		7,80,59,045/-

3. Aggrieved, the assessee carried the matter before the Ld. CIT(A)/NFAC. The appeal before the Ld. CIT(A)/NFAC was filed with a delay. As per Form 35 there was a delay of 22 days in filing of the appeal. However, according to the Ld. CIT(A)/NFAC, the appeal was filed with a delay of 209 days. Since, the delay in filing the appeal was substantial and the reasons cited for such delay was found to be not sufficient/reasonable by the Ld. CIT(A)/NFAC, he dismissed the appeal of the assessee on account of not condonation of delay in filing the appeal without deciding the issues on merits of the case. The relevant observations and findings of the Ld. CIT(A)/NFAC reads as under :

“2.7 In this case, the appeal is filed late by 209 days. In Para 2, 3 & 4 of its application for condonation of delay, the appellant has given the following reasons for delay in filing of the appeal:

“2. It is submitted that the impugned asst. order was passed electronically on 22/12/2022. The assessee would like to state that it was not aware of the asst. proceedings for the above referred asst. years. It is submitted that it did not receive any notice either physically or through e-mail or by SMS for the above referred asst. year. Since the assessee did not receive any intimation regarding the asst. proceedings being carried out, there was non compliance on the part of the assessee during the course of asst. proceeding. Further, the assessee trust did not receive the copy of the asst. order by post through e-mail or by SMS.

3. Subsequently, on 17th May 2023, the assessee received e-mail regarding the penalty proceedings u/s 270A being initiated for the above referred asst. year. After receipt of the said mail, the assessee realized that the asst. order was passed in its case. Accordingly, the assessee checked the Income Tax Portal and the asst. order was not available. Only on 28.06.2023, the asst. order was seen uploaded and at that time, the assessee received the copy of the impugned asst. order.

4. Now, the assessee is filing the appeal on 18th August 2023 and there is a small delay of 22 days in filing the above referred appeal. It is submitted that since the asst. order was received on the portal only on 28.06.2023, the assessee has considered the said date for the purpose of computing the time limit for filing the appeal. The assessee would like to state that

Shri Chintamani Shrotri is the person concerned looking after the Income Tax Matters. After receipt of the asst. order on 28.06.2023, in first week of July, Shri Chintamani Shrotri fell ill and he was unable to attend the office for a considerable period of time. After resuming office in second week of August, Shri Chintamani Shrotri contacted the Chartered Accountant and immediately the appeal has been filed. Thus, the assessee would like to state a small delay of 22 days in filing the appeal is because of the illness of Shri Chintamani Shrotri who was unable to attend the office and complete the work of filing of appeal."

2.7.1 In its application for condonation of delay, the appellant has cited three reasons for delay filing of appeal (a) non awareness of the assessment proceedings (b) a notice for penalty proceedings was received on 17.05.2023, thereby Income Tax Portal was checked but assessment order was not available (c) the assessment order was uploaded on 28.06.2023. In this case, the assessment proceedings were completed under the FAS faceless assessment scheme and the assessment order was digitally signed by the AO on 22.12.2023. The appellant has not furnished any evidence regarding its claim that assessment order was uploaded on Income Tax Portal on 28.06.2023. The appellant also submitted that it received penalty notice on 17.05.2023. The appellant further delayed in filing of its appeal by 93 days even though after receiving of penalty notice, it was came to its knowledge that an assessment proceeding in its case had been completed for the year under consideration.

2.8 Further, as per the facts of the case, the order was passed on 22.12.2022 while the appeal was filed on 18.08.2023 which is delay of 209 days excluding 30 days from the date of communication. The order was duly served upon the appellant through electronic means on registered e-mail as per Rule 127 of Income Tax Rules, 1962. The Rule-127 is reproduced as under:-

"(1) For the purposes of sub-section (1) of section 282, the addresses (including the address for electronic mail or electronic mail message) to which a notice or summons or requisition or order or any other communication under the Act (hereafter in this rule referred to as 'communication') may be delivered or transmitted shall be as per sub-rule (2).

(2) The addresses referred to in sub-rule(1) shall be-

1. For communications delivered or transmitted in the matter provided in clause (a) or clause (b) of sub-section (1) of section 282-

- 1. The address available in the PAN database of the addressee, or*
- 2. The address available in the Income Tax Return to which the communication relates, or*
- 3. The address available in the last income tax return furnished by the addressee, or*
- 4. In the case of addressee being a company address of registered office as available on the website of Ministry of corporate Affairs.*

Provide that the communication shall not be delivered or transmitted to the address mentioned in items (i) to (iv) where the addressee furnishes in writing any other address for the purposes of communication to the income tax authority or any person authorised by such authority issuing the communication.

Provide further that where the communication cannot be delivered or transmitted to the address mentioned in items (i) or (iv) or any other address furnished by the address as referred to in first proviso, the communication shall be delivered or transmitted to the following address :-

1. The address of the assessee as available with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of the said Act) or
2. The address of the assessee as available with the Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898), or
3. The address of the assessee as available with the insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938) or
4. The address of the assessee as furnished in Form No-61 to the Director of Income Tax (Intelligence and Criminal Investigation) or to the Joint Director of Income Tax (Intelligence and Criminal Investigation) under sub-rule (1) of Rule 114D, or
5. The address of the assessee as furnished in Form No-61A under sub-rule (1) of rule 114E to the Director of Income Tax (Intelligence and Criminal Investigation), or
6. The address of the assessee as available in the records of the Government, or
7. The address of the assessee as available in the records of a local authority as referred to in the Explanation below clause (20) of section 10 of the Act]

1. For communication delivered or transmitted electronically-

1. Email address available in the income tax return furnished by the addressee to which the communication relates, or
2. The email address available in the last income tax return furnished by the addressee, or
3. In the case of addressee being a company, email address of the company as available on the website of Ministry of Corporate Affairs, or
4. Any email address made available by the addressee to income tax authority or any person authorised by such income tax authority.

(3) The Principal Director General of Income Tax (Systems) or the Director General of Income Tax (Systems) shall specify the procedure, formats and standards for ensuring secure transmission of electronic communication and shall also be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to such communication."

2.8.1 The explanation given by the appellant for delay in filing of appeal, as elaborated in para 2.7, does not amount to "sufficient cause" within the meaning of section 249 of the Act. The appellant has stated that it was not aware about the assessment proceedings. The maxim 'ignorantiajuris non-excusat,' or 'ignorance of the law is no excuse,' means that people can't defend their actions by claiming they didn't know the law. Further, the appellant has also been provided sufficient opportunities but the appellant could not furnish any explanation/evidences. This is apparent that the explanation does not have substance and that the appellant has not discharged the onus of "sufficient cause" within the meaning of section 249 of the I.T Act. Hence the delay in filing the appeal of 209 days cannot be accepted.

2.9 Hence, in view of these facts and on the strength of the judicial decisions referred on the pre pages the delay in filing the appeal does not merit condonation and the appeal is treated to be filed late with reference to the provisions of section 249(3) of the Act. The same is accordingly dismissed without going into the merits of the case."

4. Dissatisfied, the assessee is in appeal before the Tribunal raising the following grounds of appeal :

“On facts and in law,

- 1] *The learned CIT(A) erred in dismissing the appeal of the assessee on the ground that there was no sufficient cause on the part of the appellant for the delay of 209 days in filing the appeal.*
- 2] *The learned CIT(A) erred in holding that the explanation given by the assessee for the delay in filing the appeal did not amount to sufficient cause and hence, the delay could not be condoned and thereby erred in dismissing the appeal of the assessee.*
- 3] *The learned CIT(A) failed to appreciate that there was sufficient cause on the part of the assessee in not filing the appeal within the prescribed time limit and hence, the delay of 209 days in filing the appeal ought to have been condoned and the appeal of the assessee should have been decided on merits.*
- 4] *The learned CIT(A) erred in rejecting the various reasons given by the assessee for the delay in filing the appeal and without appreciating that the same were valid and duly supported by documentary evidences and hence, the delay of 209 days should have been condoned and the appeal of the assessee should have been decided on merits.*
- 5] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

5. The Ld. AR, at the outset, submitted that the observation of the Ld. CIT(A)/NFAC that the appeal was filed before him with a delay of 209 days is incorrect. In fact, there was only a delay of 22 days in filing the appeal. The fact about the delay of 22 days was specifically mentioned in Column No. 15 of Form 35 filed before the Ld. CIT(A)/NFAC stating therein the reasons for such delay which was supported by filing of an affidavit of Director of the assessee company.

5.1 Referring to affidavit of the Director, the Ld. AR submitted that the assessment order was passed electronically on 22.12.2022, however, the assessee did not receive any notice either physically or through email or by SMS during the course of assessment proceedings. The assessee was thus unaware of the assessment proceedings for the relevant AY under consideration which led to non-compliance on the part of the assessee during the course of assessment proceedings. He further submitted that even the assessment order was not received by the assessee company either by Post or through email. Subsequently, on 17.05.2023, the assessee received email regarding the penalty proceedings being initiated u/s 270A of the Act for the relevant AY 2021-22. It was only after the receipt of the said email that the assessee came to know about the assessment order passed by the Ld. AO.

Accordingly, the assessee checked the Income Tax Portal but the assessment order was not available on the portal. The penalty order was passed on 28.06.2023 and both the assessment order as well as the penalty order was seen to be uploaded on the Income Tax Portal only on 28.06.2023. He, therefore, submitted that the date of receipt of the assessment order by the assessee should have been taken as 28.06.2023 by the Ld. CIT(A)/NFAC. The assessee filed appeal before the Ld. CIT(A)/NFAC on 18.08.2023 and therefore there is only a small delay of 22 days in filing the appeal considering 28.06.2023 as the date of receipt of the assessment order for the purpose of computing the time limit for filing the appeal. So far as the delay of 22 days is concerned, the Ld. AR submitted that the Director of the assessee company, Shri Chintamani Shrotri who was entrusted with the responsibility of looking after the Income Tax matters fell ill in first week of the July, 2023 and was unable to attend the office for a considerable period of time. Soon after resuming office in second week of August, 2023, Shri Chintamani Shrotri contacted the company's Chartered Accountant and the appeal was filed. The Ld. AR submitted that all these facts are well supported by the affidavit of Shri Chintamani Shrotri which was filed before the Ld. CIT(A)/NFAC praying for condonation of the delay in filing the appeal (pages 1 to 6 of the paper book refers). The Ld. AR also brought to the attention of the Bench a copy of screenshots from the Income Tax portal and email received from the Department on 17.05.2023 containing intimation of show cause notice for penalty u/s 270A asking the assessee to make submissions in support of its claim (pages 7 to 9 of the paper book refers). The Ld. AR submitted that the assessee has a strong case on merits and urged that the Ld. CIT(A)/NFAC may be directed to condone the delay in filing of the appeal and to decide the appeal on merits after affording reasonable opportunity of hearing to the assessee.

6. The Ld. DR, on the other hand, relied on the order of the Ld. CIT(A)/NFAC.

7. We have heard the Ld. Representatives of the parties and perused the material available on record as well as paper book filed by the Ld. AR on behalf of the assessee. Admittedly, there is a delay in filing of the appeal before the Ld. CIT(A)/NFAC. As contended by the Ld. Counsel for the assessee there was a small delay of 22 days in filing of the appeal whereas according to the Ld. CIT(A)/NFAC the appeal was barred by limitation by 209 days. The Ld. CIT(A)/NFAC has dismissed the appeal of the assessee on account of non-

condonation of delay of 209 days in filing of the appeal holding it to be a substantial delay and not finding the reasons to be attributable to the 'sufficient cause' for such delay. Before us, drawing support from the affidavit of the Director of the assessee company along with the other documents filed in support of the claim of the assessee, the Ld. AR has demonstrated that there was a delay of only 22 days in filing of the appeal taking into consideration the date of 28.06.2023 as the date of receipt of the assessment order by the assessee. We find some force in the arguments advanced by the Ld. Counsel for the assessee that there was delay of only 22 days in filing of the appeal and that has resulted on account of reasons cited above which in our view amounts to 'sufficient/reasonable cause' for the delay in filing of the appeal. There is no contrary material/evidence brought on record by the Revenue to controvert the above submissions/contentions of the Ld. AR. In this view of the matter, in our opinion, it would be fit and proper, in the interest of justice if the matter is set aside to the file of the Ld. CIT(A)/NFAC with a direction to condone the delay in filing of the appeal before him and to adjudicate the appeal on merits.

8. We find the Hon'ble Supreme Court in the case of *Collector, Land Acquisition vs. Mst. Katiji & Ors.* reported in 167 ITR 471 (SC) has held that 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. 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.

9. We find recently the Hon'ble Supreme Court in the case of *Inder Singh Vs. The State of Madhya Pradesh* reported in 2025 LiveLaw (SC) 339 has held as under:

"14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation."

10. In the light of the decision(s) of the Hon'ble Supreme Court (supra), we hereby to set aside the impugned order of the Ld. CIT(A)/NFAC and restore the matter back to his file with a direction to condone the delay in filing the appeal before him by the assessee and decide the appeal on merits as per fact and law after giving due opportunity of being heard to the assessee. Needless to say,

the assessee shall comply with the notices issued by the Ld. CIT(A)/NFAC and make his submissions before him on the appointed date without seeking any adjournment under any pretext, unless required for the sufficient cause, failing which the Ld. CIT(A) / NFAC shall be at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open court on 21st January, 2026.

Sd/-
(R.K. Panda)
VICE PRESIDENT

Sd/-
(Astha Chandra)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21st January, 2026.
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT concerned.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,
पुणे / DR, ITAT, "A" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

सहायक पंजीकार/ Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune