



**IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE DR. DINESH MOHAN SINHA, JUDICIAL MEMBER**

**&**

**SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकरअपीलसं./ITA No. 10/SRT/2025 & 11/SRT/2025**

**(निर्धारणवर्ष / Assessment Year: (2014-15),(2015-16)  
(Hybrid Hearing)**

Shree Bilimora Vibhag Anavil Mandal Nutan Park, Shanti Niketan Society Morarji Desai Marg Bilimora, Navsari, 396321	<b>Vs.</b>	Income Tax Department CIT(exemption) Surat.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AACTS3818C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Sujesh C. Suratwala, CA  
Respondent by : Shri Ajay Uke, Sr. DR

**Date of Hearing : 18/12/2025**  
**Date of Pronouncement : 29/01/2026**

**आदेश / ORDER**

**PER Dr.DINESH MOHAN SINHA, JM:**

Captioned appeal filed by the same assessee, pertaining to Assessment Year (AY) 2014-15&2015-16, is directed against the order passed by the Commissioner of Income tax dated 19.11.2024 same for both the appeal, which



in turn arises out of an Assessment order dated 28.02.2016 & 27.03.2017 passed by Assessing Officer under the Income Tax Act, 1961.

2. Grounds of appeal:

for ITA -10/SRT/2025.

1. *Learned CIT(A)/NFAC erred in rejecting the delay condone on the ground that intimation order u/s 143(1) of the Act for A.Y. 2014-15 was received by the assessee on 16.02.2016 i.e on the same day of the intimation order passed by the CPC banglore so filling appeal in delay of by the appellant has not acted with reasonable diligence and prudence which is not correct.*

2. *Learned CIT(A)/NFAC erred dismissed the appeal without considering the merits of the case where assessee trust is eligible to get deduction otherwise in Section 57(iii) of the Act against the expenditure incurred by the trust for the object of the trust which is unjustified to the assessee trust and disallowance should be deleted.*

3. *The learned CPC Bangalore has erred in making addition of Rs. 28,19,031/- to the income of the assessee trust which is otherwise exempted u/s 11& 12 of the Income tax act hence required to be deleted.*

4. *The learned CPC Bangalore has erred in making addition of Rs. 28,19,031/- to the income of the assessee trust while processing the return u/s 143(1) of the act without providing opportunity of being heard which is against "Principle of natural justice" otherwise exempted u/s 11&12 of the Income tax act hence required to be deleted.*

5. *On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in disallowing revenue expenditure to the extent of Rs 28,19,031/- which was pertaining to object of the trust and otherwise also allowed against income as per prudential norms.*

6. *On the facts and circumstances of the case in law. Learned CPC banglore has erred in disallowing earlier period deficits to the extent of Rs 9,77,523/- and 9,989/- for A.Y. 2010-11 respectively which was pertaining to object of the trust and otherwise also allowed against income.*



7. *On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in disallowing Capital Expenditure incurred towards addition to the fixed assets of Rs. 5,28,577/- which is allowed u/s 11 and 12 of the act.*
8. *On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in treating corpus donation of Rs. 11,77,424/- as income of the assessee trust but as a matter of fact the same is in the nature of capital receipt and not covered within ambit and scope of "income".*
9. *On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in treating gross receipt of Rs. 28,19,031/- as "income" and levy tax @ 30% thereon even without allowing exemption of Rs. 2, 50,000/- as threshold limit which normally eligible to assessee trust.*
10. *The appellant craved leave to add, alter, delete, amend or rescind any portion of the appeal as an, when necessary, with the permission of office of CIT (A)/NFAC.*

for ITA -11/SRT/2025.

1. *Learned CIT(A)/NFAC erred in rejecting the delay condone on the ground that intimation order u/s 143(1) of the Act for A.Y. 2014-15 was received by the assessee on 16.02.2016 i.e on the same day of the intimation order passed by the CPC banglore so filing appeal in delay of by the appellant has not acted with reasonable diligence and prudence which is not correct.*
2. *Learned CIT(A)/NFAC erred dismissed the appeal without considering the merits of the case where assessee trust is eligible to get deduction otherwise in Section 57(iii) of the Act against the expenditure incurred by the trust for the object of the trust which is unjustified to the assessee trust and disallowance should be deleted.*
3. *The learned CPC Bangalore has erred in making addition of Rs. 28,19,031/- to the income of the assessee trust which is otherwise exempted u/s 11& 12 of the Income tax act hence required to be deleted.*
4. *The learned CPC Bangalore has erred in making addition of Rs. 28,19,031/- to the income of the assessee trust while processing the return u/s 143(1) of the act without*



*providing opportunity of being heard which is against “Principle of natural justice” otherwise exempted u/s 11&12 of the Income tax act hence required to be deleted.*

*5. On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in disallowing revenue expenditure to the extent of Rs 28,19,031/- which was pertaining to object of the trust and otherwise also allowed against income as per prudential norms.*

*6. On the facts and circumstances of the case in law. Learned CPC banglore has erred in disallowing earlier period deficits to the extent of Rs 9,77,523/- and 9,989/- for A.Y. 2010-11 respectiely which was pertaining to object of the trust and otherwise also allowed against income.*

*7. On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in diallowing Capital Expenditure incurred towards addition to the fixed assets of Rs. 5,28,577/- which is allowed u/s 11 and 12 of the act.*

*8. On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in treating corpus donation of Rs. 11,77,424/- as income of the assesse trust but as a matter of fact the same is in the nature of capital receipt and not covered within ambit and scope of “income”.*

*9. On the facts and circumstances of the case and in law, learned CPC Bangalore has erred in treating gross receipt of Rs. 28,19,031/- as “income” and levy tax @ 30% thereon even without allowing exemption of Rs. 2, 50,000/- as threshold limit which normally eligible to assesse trust.*

*10. The appellatnt craved leave to add, alter, delete, amend or rescind any portion of the appeal as an, when necessary, with the permission of office of CIT (A)/NFAC.*

### 3. Facts of the case:

Assessee Trust is duly registered under Charity Commissioner vide reg. No. A/358/NAVSARI, dated 11.10.1982 the Assessee Trust is also registered under 12A/12AA of income tax act vide Registration No. AACTS3818C/760/16-17/T-1286/12AA, Dated 03.03.2017 with effect from 12.09.2016(A.Y.2017-18). During the year the Assessee trust has filed the Income Tax Return in form 7



vide Ack No.506653700160315 by showing Total Income of Rs. NIL. While Processing the return the CPC Bangalore has disallowed the Expenditure incurred for the object of the trust to the extent of Rs.28,19,031/- and calculated the Tax @30% on gross Receipt of Rs.28,19,031/- without allowing the basic threshold limit of Rs. 2,50,000/-. Further, corpus donation (capital Receipt) of Rs.11,77,424 /- were also added back to the total income of the trust and levy tax @30% thereon.

4. Assesse filed an appeal before Ld. CIT(A). Ld. CIT(A) not admitted(dismissed) the appeal by order dated 19.11.2024 with following observation:-

*“ I have carefully considered the appeal filed in form no 35 and date of service mentioned therein. It is seen that the appeal was filed late by more than 7 years. In the Form No. 35 the appellant has mentioned that the intimation order u/s 143(1) dated 26.02.2016 was received by the appellant on the same day. This itself is a sufficient cause for rejection of the condonation request of the appellant. Further the appellant is a trust which has to get its accounts audited every year. It has been regularly filing its return of income for the subsequent years. Therefore, not getting any physical copy of intimation order cannot be satisfactory reason for delay in filing when the communication from the Income Tax Department was being received on email and reflected on the assessee portal. It is evident from the reason mentioned by the appellant that it has not acted with reasonable diligence and prudence and there is no reasonable cause which justifies the delay of more than 8 years in filing the appeal. In view of the above judicial pronouncements, the basic principle emerges that the delay should be bonafide and there should not be any negligence on the part of the appellant. Since there is no proper justification for late filing of the appeal therefore the delay in filing the current appeal is not condoned and the appeal is dismissed. Since the delay is not condoned, therefore the issues and grounds on merit are not taken for adjudication.”*

5. The assessee is in appeal before this tribunal against the impugned order dated 19.11.2024.



5.1. The AR of the assessee submitted that no opportunity was given to the assessee to explain the case before the lower authority. Ld. AR Requested for an opportunity to explain his case before the lower authority.

5.2. On the contrary Ld. DR of revenue relied on the order of authority below.

6. We have heard the rival contention of both the parties and perused the relevant material available on record. We note that the assessee is a trust and duly registered under Charity Commissioner vide reg. No. A/358/NAVSARI, dated 11.10.1982 the Assessee Trust is also registered under 12A/12AA of income tax act vide Registration No. AACTS3818C/760/16-17/T-1286/12AA, Dated 03.03.2017 with effect from 12.09.2016(A.Y.2017-18). During the year under consideration the Assessee trust has filed the Income Tax Return in form vide Ack No. 506653700160315 by showing Total Income of Rs. NIL. While processing the return the CPC Bangalore has disallowed the Expenditure incurred for the object of the trust to the extent of Rs. 28,19,031/- and calculated the Tax @ 30% on gross Receipt of Rs. 28,19,031/- without allowing the basic threshold limit of Rs. 2,50,000/-. Further, corpus donation (capital Receipt) of Rs. 11,77,424/- were also added back to the total income of the trust and levy tax @ 30% thereon. We note that learned CPC Bangalore has process the return of income filed by the assessee trust. CPC Bangalore has disallowed all revenue expenditure only on the ground that the assessee trust is not registered u/s 12A of the Act for the year under consideration but as a matter of fact, the assessee trust is duly registered under income tax act vide Registration No. AACTS3818C/760/16-17/T-1286/12AA, Dated 03.03.2017 with effect from 12.09.2016(A.Y.2017-18). We note that the trust is registered u/s 12A with effect from 17.08.2016(A.Y.2017-18) hence for A.Y.2014-15 the benefit u/s 12A cannot be applicable then the alternative recourse of section 57(iii) should be allowed to the assessee trust. We note that the Ld. CIT(A) has dismissed the



appeal of the assessee on grounds of delay that the assessee has acknowledged the order receipt on the very same day i.e. on 28.02.2016, the appeal filed before CIT(A) is delayed by Approx. 8years (2974 days). The assessee filed an application for condonation of delay with an appeal before Ld. CIT(A). We further note that the relevant paragraph of condonation of delay application is following:-

*“ Assessee Trust has filed Original Return U/s 139(4) vide Ack. No. 506653700160315 dated 16th March, 2015 but CPC, Bengaluru has not allowed claimed U/s 11 of the Act.*

*Further, Vinay Lalbhai Mehta - Trustee is of the bonafide believed that the trust is eligible to claimed deduction U/s 11 and 12 of the Act for the year under consideration. Further, after filing return of income for A.Y. 2014-15, intimation U/s 143(1) of the Act passed by the CPC Bengaluru were never received physically by the assessee trust. Upon receipt of demand notice along with Interest levied thereon in April 2024 assessee trust after making inquiry with concern Chartered Accountant came to know about outstanding demand plus Interest Rs.19,24,270/-were pending due to disallowance of Expenditure incurred of the trust due to non-availability of registration U/s 12A of the Act.*

*After Consulting with respective Chartered Accountant and guidance given by CA Suresh M Desai about the remedy available with the Income Tax Law against such a Huge Demand appellant has no option but to file the Appeal before the Honorable National Faceless Appeal Centre, Delhi.*

*That the delay in filing the appeal is unintentional, bonafide and appellant was prevented from sufficient cause.*

The Ld. CIT(A) has found that the reason given in donation of delay application is not bona-fide, no proper justification for late filing in appeal is given. Hence, application of condonation of delay is rejected. We further note that the appeal is related to an order u/s 143(1)(A) of the Act.



7. We have considered the rival submissions and perused the relevant finding given in the impugned order of Id. CIT(A). We find that during the appellate proceedings, the assessee submitted the following reasons, for condonation of delay:

*“The Appeal is related to assessment U/s 139(1)(a) made by C.P.C. No any intimation or copy of A.O is received by applicant. The applicant is residing far away from city and Staff of Society have no any technical awareness for email etc. The assessee come to know about assessment when demand notice and challan was received from applicable Jurisdiction Income Tax Officer. So we request to condone the delay in filling the Appeal. So delay in appeal, kindly consider and take for necessary process.”*

8. We have perused the record available before us and heard the rival submissions of both sides, and peruse the written notes filed by both the sides. Certainly, the delay is significant. But the length of the delay becomes insignificant if there was sufficient cause for such a delay which prevented the assessee in filing the appeal. As such we need to consider the cause of the delay and not the length of the delay. Accordingly in our considered view when there was a reasonable cause, the period of delay may not be a relevant factor. The Hon'ble Madras High Court in the case of CIT v. K.S.P. Shanmugavel Nadai and Ors reported in 153 ITR 596 held as under:

*"Since in this case the assessee had been prosecuting other remedies, the time taken by those proceedings should naturally be taken while determining the question whether the assessee had sufficient cause for not presenting the appeal in time. Therefore, the revenue was not right in submitting that the appeal filed under section 17 was an appeal against the original order of assessment under the Act, which was passed about 20 years ago, as it was evident that the appeal was against an order of rejection of relief by the assessing authority. Thus, though the Tribunal's view that there was no question of limitation in such cases, was not correct yet the AAC was right in condoning the delay and entertaining the appeal.”*



8.1 From the above, we note that the Hon'ble Madras High Court was pleased to condone the delay for 20 years approximately by holding that there was sufficient and reasonable cause on the part of the assessee for not filing the appeal within the period of limitation. Thus, the delay in the instant case is just 2974 number of days which cannot be considered to be an inordinate or excessive delay in comparison to the delay of 7330 days approximately.

8.2 The next controversy arises what is the sufficient cause, it has not been defined anywhere under the Act but refers to an occasion which is beyond the control of a normal person. What is beyond the control of a person, the test of reasonable approach under normal circumstances should be applied. As such no hard and fast rule can be applied to figure out whether there was sufficient cause for the delay. It depends upon a case-to-case basis. However, the Hon'ble Courts in the series of judgements have held that while condoning the delay the expression of sufficient cause should be construed for advancing substantial justice to the party concerned. For evaluating sufficiency of cause and then, for deciding condonation of delay, following principles laid down by Hon'ble Apex Court in the case of Mst. Katiji (167 ITR 471) should be kept in mind:

- (i) Ordinarily, a litigant does not stand to benefit by lodging an appeal late.
- (ii) 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.
- (iii) "Every day's delay must be explained" does not mean that a pedantic approach should be taken. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common-sense pragmatic manner.



(iv) 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.

(v) 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.

(vi) 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.

8.3 From the above judgment of the Hon'ble Apex Court, we note that substantial justice deserves to be preferred rather than deciding the matter based on technical defect.

8.4 We also note that the Hon'ble Gujarat High Court in the case of Vareli textile industry versus CIT reported in 154 Taxman 33 has held as under:

*“ It is equally well-settled that where a cause is consciously abandoned (as in the present case) the party seeking condonation has to show by cogent evidence sufficient cause in legal position is to ensure that a meritorious case is not thrown out on the ground of support of its claim of condonation. The onus is greater. One of the propositions of settled limitation. Therefore, it is necessary to examine, at least prima facie, whether the assessee has or has not a case on merits.”*

8.5 From the above, it is transpired that a meritorious case of the assessee should not be thrown away on account of technical lapses.

9. In view of the above, we are of the opinion that it is the fit case where the delay has to be condoned Irrespective of the duration/period of the delay. In this



case, the non-filing of an affidavit by the Revenue opposing the condonation of delay itself is sufficient for condoning the delay of 2974 number of days. We also note that there is no allegation from the Revenue that the appeal was not filed by the assessee in time deliberately. Therefore, we are inclined to prefer substantial justice rather than technicality in deciding the issue. We also find that if we reject the application of the assessee for condoning the delay then it would amount to legalizing injustice on technical grounds whereas the Tribunal can remove injustice and do justice. Thus, we condone the delay of 2974 days in filing the appeal and proceed to hear the appeal on merit for the adjudication.

10. In view of the above facts and circumstances of the case we set-aside the order of the Ld CIT(A) and matter restore back to the file of Ld CIT( A )for proper adjudication on merit according to law after giving due opportunity to the assessee.

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

**Order pronounced in the open court on 29/01/2026.**

Sd/-  
**(Dr.DINESH MOHAN SINHA)**  
**ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 29/01/2026

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Surat
6. Guard File

Sd/-  
**(BIJAYANANDA PRUSETH)**  
**JUDICIAL MEMBER**

By Order

// TRUE COPY //

Assistant Registrar/Sr. PS/PS  
ITAT, Surat