

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA Nos.20 to 29/RPR/2026

निर्धारण वर्ष /Assessment Years : 2013-14, 2014-15 & 2015-16

Rajmal Jain
Ward No.3, Tahsilpara,
Main Road, Narayanpur, Dist. Bastar
Chhattisgarh (C.G.)-494 661
PAN: AOUPJ1700Q

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer
Kanker (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sulesh Koshal, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 09.02.2026

घोषणा की तारीख / Date of Pronouncement : 09.02.2026

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeals preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals)/NFAC, dated 02.09.2025 for the assessments years 2013-14, 2014-15 & 2015-2016 as per the grounds of appeal on record.

2. At the very outset, it is noted that there is delay of 52 days in filing each of the appeals before the Tribunal. That as against the said delay, the Ld. Counsel for the assessee has filed condonation applications. I have carefully perused the contents of the condonation application as well as submissions of the Ld. Counsel. That keeping in view of guidelines of the judicial pronouncements viz. (i) **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025;** (ii) **Collector, Land Acquisition Vs. Mst. Katiji & Ors, reported in 167 ITR 471 (SC);** (iii) **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur (C.G.), TAX Case No.17/2025, dated 24.02.2025** (iv) **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21st March, 2025** and on a careful consideration of the contents in the said condonation application, I am of the considered view that delay in

filing appeals is not intentional and no deliberate or malafide intention can be attributed to the conduct of the assessee, if any.

3. That further, the Revenue has also not filed any evidence on record to suggest that the said delay in filing of these appeals have been done in deliberate manner by the assessee. Considering all these facts in totality and as per the dictate of the above referred judicial pronouncements, the said delay of 52 days involved in each of the appeals is hereby condoned.

4. That as noted from the order of the Ld. CIT(Appeals)/NFAC, it had merely passed one para order and summarily dismissed the assessee's appeal in limine on the ground of delay itself. There is no mention as to what were the reasons furnished by the assessee before the Ld. CIT(Appeals)/NFAC in terms with Section 249(3) of the Income Tax Act, 1961 (for short 'the Act'). That further, as per the dictate of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**, wherein the Hon'ble High Court had clearly laid out the judicial principles that the appellate authority shall have to adjudicate every grounds of appeal on merits. In the aforementioned case the Hon'ble High Court had observed as under:

"8. From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 250(6) of the Act

obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Sec. 251(1)(a) and (h) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-s. (2) of [s. 251](#) of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under [s. 246A](#) of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non-prosecution of the appeal by the assessee. This is amply clear from the [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 251(2) of the Act which requires the CIT(A) to apply his mind to all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act.”

5. Considering the facts and circumstances of the case and above referred judicial pronouncement, I am of the considered view that the respective orders of the Ld. CIT(Appeals)/NFAC shall have to be set-aside and remanded back to its file for **(i)** to come out with a speaking order considering reasons filed by the assessee for not filing the appeal within the period of limitation before the Ld. CIT(Appeals)/NFAC and whether those reasons were valid so to condone the said delay in terms with Section 249(3) of the Act; **(ii)** That once the Ld. CIT(Appeal)/NFAC decides

to condone the delay in each of the appeals, then it would proceed to decide each of the grounds on merits while complying with the principles of natural justice and as per dictate of the aforesaid judicial pronouncement. I order accordingly.

6. As per the above terms, grounds of appeal raised by the assessee are allowed for statistical purposes.

7. In the result, all the appeals of the assessee are allowed for statistical purposes.

Order pronounced in open court on 09th day of February, 2026.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 09th February, 2026.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur