

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, 'B' CHANDIGARH

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 937/CHD/2025

निर्धारण वर्ष / Assessment Year: 2011-12

Mahinder Kaur, Village-Manak Pur Devi, Post Office-Pinjore, Tehsil-Kalka, Panchkula.	Vs	The ITO, Panchkula.
स्थायी लेखा सं./PAN NO: BGNPM2629H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Mukesh Pandey, Advocate

Revenue by : Dr. Ranjit Kaur, Addl. CIT Sr. DR

Date of Hearing : 04.02.2026

Date of Pronouncement : 09.02.2026

**PHYSICAL HEARING**

**ORDER**

**PER RAJPAL YADAV, VP**

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 15.07.2024 passed for assessment year 2011-12.

2. The assessee has mentioned the date of CIT (Appeals)'s order as 23.07.2025 in Form No. 36, therefore, Registry has not pointed out that appeal is time barred. But actually,

appeal is time barred by more than 370 days. The assessee has filed an application for condonation of delay pleading therein that she is an old illiterate lady of 73 years. She is not in any organized business. She belongs to a rural strata of the Society. The additions have been made on account of unexplained deposits in her bank account. She could not keep a track of income tax litigation on online Portal. Therefore, the appeal has become time barred. She prayed for condonation of delay and adjudication of the appeal on merit.

3. The ld. Sr.DR submitted that appeal before the ld.CIT (Appeals) was also time barred. She has taken similar plea there. She should be more vigilant.

4. 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.

5. 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 quiet 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".*

6. In the light of above, if we examine facts of present case, then it would reveal that assessee has not adopted delay as a strategy to litigate with the Revenue. The delay was happened on account of bonafide error and particularly she is not very conversant in any manner to keep a track on the income tax

litigation on online Portal. Therefore, we condone the delay and proceed to decide the appeal on merit.

7. With the assistance of ld. Representative, we have gone through the record carefully. We find that assessment of the assessee was opened on the ground that cash was deposited in her Saving Bank Account with Punjab National bank on different dates from 13.04.2010 to 12.02.2011. No one has appeared on her behalf in response to notice given by the AO. Hence, in the ex-parte assessment order, AO has made an addition of Rs.2.33 Cr.

8. In appeal, the ld.CIT (Appeals) has not adjudicated any issue, though noticed the fact that assessee has filed submissions and replies in response to the notice given. Such details are being noticed in para 3 of the CIT (Appeals)'s order, however, a perusal of impugned order would indicate that ld.CIT (Appeals) has just reproduced the notice given u/s 148 of the Act and abruptly dismissed the appeal without judging any of the issues. Therefore, impugned order is not sustainable. Since assessment order is also an ex-parte assessment order and if we set aside the issues to the file of

CIT (Appeals), then Id. First Appellate Authority ought to have called for a remand report from the AO and unnecessarily litigation will be continued at two platforms. Therefore, we deem it appropriate to set aside both the impugned orders and restore all these issues to the file of AO. The assessee will be at liberty to submit any explanation or evidence in support of her explanation before the AO and Id. AO will not only serve a notice through online Portal but also through Registered Post and any other mode of service before taking up the assessment proceedings.

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

Order pronounced on 09.02.2026.

**Sd/-**

**(MANOJ KUMAR AGGARWAL)**  
**ACCOUNTANT MEMBER**

**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. आयकरआयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar