

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 Nos. 1087 & 1088/CHD/2025
निर्धारण वर्ष / Assessment Year: 2017-18 & 2018-19

S.D. Education Society, S.D. Model Sr. Section. School, Railway Road, Karnal.	Vs	The DCIT (Exemptions), Chandigarh.
स्थायी लेखा सं./PAN NO: AABAS5001P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Girish Aneja, CA
Revenue by : Dr. Ranjit Kaur, Addl. CIT Sr. DR

Date of Hearing : 09.02.2026
Date of Pronouncement : 10.02.2026

PHYSICAL HEARING

ORDER

PER RAJPAL YADAV, VP

The present two appeals are directed at the instance of the assessee against separate orders of ld. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 03.10.2024 passed for assessment year 2017-18 and 2018-19.

2. The Registry has pointed out that appeals are time barred by 239 days. In order to explain the delay, assessee has filed application for condonation of delay. In the application,

assessee has pleaded that Shri Gulshan Dua was looking after all the financial matters of the assessee Society for the last more than 30 years. He retired on 31.03.2024 and was formally relieved from the Institution on 07.05.2024. The appeals have been decided by Faceless Centre and assessee could not lay its hand on the status of the litigation on online Portal of the Income Tax Department. Due to that, appeals have become time barred.

3. 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.

4. 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 Iain 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".

5. In the light of above, if we examine facts of present case, then it would reveal that there is no malafide intention at the end of the assessee. Delay is not attributable to the assessee deliberately as a strategy to litigate with the Revenue. Hence, considering the bonafide lapses at the end of the Management of the assessee society, we condone the delay and proceed to decide the appeals on merit.

6. The assessee has raised three grounds of appeal in each assessment year whereby it has pleaded that Id.CIT (Appeals) has erred in confirming the action of the AO in assessing the income of the assessee at Rs.2,61,33,573/- and Rs.1,89,83,316/- in assessment year 2017-18 and 2018-19 respectively.

7. In other two grounds of appeal, assessee has raised peripheral arguments.

8. The brief facts of the case are that assessee has filed its return of income on 09.02.2018 and 31.10.2018 declaring 'nil' income by claiming exemption u/s 10(23C)(vi) of the Income Tax Act. This exemption has been denied to the assessee by the AO because assessee has claimed the exemption on the basis of registration granted u/s 10(23C)(vi) by Chief Commissioner of Income Tax, Panchkula. However, according to the AO, the assessee failed to submit approval granted by the Chief Commissioner under above provision. The Id. counsel for the assessee submitted that assessee has filed a Writ Petition bearing No. 10104 of 2011 vide which action of the Chief Commissioner of Income Tax rejecting approval

admissible to the assessee u/s 10(23C) was challenged. The Hon'ble High Court vide its order dated 27.11.2025 relegated this issue to the file of Chief Commissioner for fresh consideration. The ld. counsel for the assessee further drew our attention towards orders of the Pr. Chief Commissioner dated 10.02.2011 and 14.02.2011 which are placed in the Paper Book at page Nos. 5 to 22. He also drew our attention to the order of the ITAT passed in ITA No. 2031/Del/2021 and 2032/Del/2023 for assessment year 2012-13 and 2013-14.

9. With the assistance of ld. Representative, we have gone through the record carefully. It emerges out that every year, an issue was agitated by the assessee whether approval u/s 10(23C)(vi) of the Act is admissible or not. Continuously for a number of years, these issues have been relegated to the file of Pr. Commissioner of Income Tax for fresh consideration. Recently Hon'ble High Court has remitted this issue back to the file of Pr. Commissioner of Income Tax for re-consideration of these issues. Therefore, we are of the views that unless it is settled, whether assessee is entitled for approval u/s 10(23C)(vi) of the Income Tax Act or not, assessment of its

income cannot be made. Therefore, we set aside the impugned orders in both the years and restore this issue to the file of AO for fresh adjudication. The ld. AO shall ascertain the status of the assessee whether approval has been granted by the ld. Commissioner of Income Tax/Competent Authority or not. Accordingly, the ld. AO shall determine the income of the assessee Society.

10. In the result, both the appeals are allowed for statistical purposes.

Order pronounced on 10.02.2026.

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