

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 No.32/RPR/2026

निर्धारण वर्ष / Assessment Year : 2011-12

M/s. Gaurav Construction Co.
House No.508, Agroha Marg,
Nai Basti, Korba (C.G.)-495 677
PAN: AAGFG1237K

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1,
Korba (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 10.02.2026

घोषणा की तारीख / Date of Pronouncement : 16.02.2026

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

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 12.11.2025 for the assessment year 2011-12 as per the grounds of appeal on record.

2. At the very outset, it is noted that the Ld. CIT(Appeals)/NFAC had dismissed the appeal of the assessee in limine on the ground of huge inordinate delay in filing appeal of the assessee before the said authority. There is delay of 9 years and 233 days for filing the appeal by the assessee before the Ld. CIT(Appeals)/NFAC. The Ld. CIT(Appeals)/NFAC after considering the submissions of the assessee regarding condonation of the said inordinate delay, had dismissed the appeal of the assessee.

3. At the time of hearing, the Ld. Counsel for the assessee submitted that reasons for the said delay were explained before the Ld. CIT(Appeals)/NFAC a/w. affidavit filed and therefore, once explanations were furnished, the number of days of delay is immaterial.

4. Per contra, the Ld. Sr. DR vehemently supported the findings of the Ld. CIT(Appeals)/NFAC and submitted that there has been no evidence brought on record by the Ld. Counsel for the assessee to substantiate such huge delay nor sufficient cause for such condonation has been

brought out and such huge delay in filing an appeal itself shows that the assessee is negligent. In other words, there is no evidence to suggest that the assessee had acted bonafide and that there is no negligence on its part, therefore, findings of the Ld. CIT(Appeals)/NFAC should be upheld.

5. I have heard the rival contentions, analyzed the facts and circumstances in this case. The Ld. CIT(Appeals)/NFAC had dismissed the appeal since there has been inordinate delay of 9 years 233 days in filing the appeal by the assessee before the said authority. The Ld. Counsel for the assessee submitted that they have given their submissions before the Ld. CIT(Appeals)/NFAC and accordingly, the said authority should not have dismissed the appeal on the ground of delay itself. However, the fact of the matter is that the assessee cannot take advantage of its own wrong. Nothing has been brought on record to suggest any sufficient cause for condonation of such delay before the First Appellate Authority nor it has been established that there was no negligence on the part of the assessee for non-compliance regarding law of limitation. That the judicial principles dictates that such inordinate delay combined with negligence and lack of sufficiency of cause for the delay results in dismissal of the case on the ground of limitation itself.

6. That the Hon'ble Apex Court in certain judgments has held that justice oriented approach has to be considered while condoning the delay

of the assessee. The word 'justice oriented approach' also combines bonafideness on the part of the assessee as well as sufficient cause for such condonation of delay coupled with the merits of the matter.

7. In the present case, no evidence has been furnished for establishing such sufficient cause for such huge delay of 9 years 233 days. That at the same time, no materials were brought on record to even suggest that the assessee was vigilant enough and that the delay had occurred due to circumstances beyond the control of the assessee. That when there is huge delay of 9 years 233 days in filing appeal before the Ld. CIT(Appeals)/NFAC, it is a clear case of negligency of the assessee. That even within the connotation of 'justice oriented approach', it would be unfair towards Revenue to condone such delay and provide relief to the assessee on the ground of limitation where the assessee itself was negligent to comply with law of limitation. The scales of justice are always to be balanced and on a careful examination of the facts and circumstances of the present case, the action of the Ld. CIT(Appeals)/NFAC for not condoning such huge, unreasonable and inordinate delay in absence of bonafideness of the assessee falls within the umbrella of justice oriented approach so to clearly spell out that in order to balance scales of justice negligent assessee shall not be allowed to take advantage of its own wrong.

8. The **Hon'ble Apex Court** in the case of **H. Guruswamy & Ors. Vs. A. Krishnaish since deceased by Lrs, CIVIL APPEAL No. 317 of 2025 (Petition for Special Leave to Appeal (C) No.9719/2020), dated 08.01.2025** has held that while considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It had further observed that once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations.

9. Further, the **Hon'ble Apex Court** in the case of **Thirunagalingam Vs. Lingeswaran & Anr., Civil Appeal No.(S).....of 2025 [Arising out of SLP (C) No. 17575 of 2023]** had held while setting aside the impugned order of the Hon'ble High Court of Madras which allowed the civil revision preferred by the assessee that the delay should not be condoned merely as an act of generosity. The Hon'ble Apex Court had emphasized that reasons explained by the assessee should be bonafide and that there shall be no negligence on the part of the assessee. The Hon'ble Apex Court emphasized that delay should not be condoned merely as an Act of

generosity and that the pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party.

10. That any prudent person being aggrieved by the order of the A.O would have immediately filed the appeal before the Ld. CIT(Appeals)/NFAC. In this case, however, the assessee chooses to wait for nearly 10 years and then had filed the appeal before the Ld. CIT(Appeals)/NFAC which is a clear case of gross negligence while ascertaining rights and liabilities through the process of law. In view of the aforesaid facts and above referred judicial pronouncements, finding no infirmity with the view taken by the Ld. CIT(Appeals)/NFAC, I uphold the same.

11. In the result, appeal of the assessee is dismissed.

Order pronounced in open court on 16th day of February, 2026.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 16th 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