

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.824/RPR/2025

निर्धारण वर्ष / Assessment Year : 2017-18

Uday Venture
Singhania Bhawan, Subhash Road,
Telghani Naka, Raipur (C.G.)
PAN: AADFU7600D

.....अपीलार्थी / Appellant

बनाम / V/s.

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

.....प्रत्यर्थी / Respondent

Assessee by : None (petition filed)
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 18.02.2026

घोषणा की तारीख / Date of Pronouncement : 18.02.2026

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 10.10.2025 for the assessment year 2017-18 as per the grounds of appeal on record.

2. At the time of hearing, none appeared for the assessee. However, an adjournment petition has been filed which is rejected. The matter is heard after recording the submissions of the Ld. Sr. DR and on a careful perusal of the materials available on record.

3. At the very outset, it is noted that the Ld. CIT(Appeals)/NFAC had dismissed the appeal of the assessee in limine by not condoning the delay of 1058 days. That as discernable from the order of the Ld. CIT(Appeals)/NFAC, sufficient cause in accordance with Section 249(3) of the Income Tax Act, 1961 (for short 'the Act') has not been established in the case of the assessee and hence, the appeal of the assessee was dismissed as barred by limitation.

4. The Ld. Sr. DR fairly conceded that the matter may be remanded back to the file of the Ld. CIT(Appeals)/NFAC for denovo adjudication as per law after considering the delay aspect in interest of substantive justice.

5. That the **Hon'ble High Court of Bombay** in the case of in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)** had categorically held that the appellate authority has to adjudicate all the grounds on merits and cannot dismiss the appeal in limine on the ground of delay or for non-prosecution. 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.”

6. The principle of law as enshrined in the judgment of the Hon'ble High Court of Bombay in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF)** (supra), transcends into the scenario that the Ld. CIT(Appeals)/NFAC has no power to dismiss appeal in limine on delay only without referring and discussing the contents available on record before him. Further, I find that similar pronouncement has been provided by ITAT, DB Bench, Raipur in the case of **Prabal Aadhar Seva Sansthan Vs. ITO (Exemption), Ward-1, Raipur (C.G.), ITA No. 553/RPR/2025, A.Y.2023-24, dated 13.11.2025** wherein it was held and observed as follows:

“7. Considering the entire facts and circumstances, in the interest of substantive justice, we allow one final opportunity to the assessee to present relevant evidence/documents before the Ld. CIT(Appeals)/NFAC explaining the reasons for condonation of delay and after going through those evidences, the Ld. CIT(Appeals)/NFAC shall specifically decide whether such delay can be condoned as per Section 249(3) of the Act and then decide on merits of the case in terms with Section 250(4) & (6) of the Act. Further, as per the dictate of the decision of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**, the Ld. CIT(Appeals)/NFAC had no power to dismiss an appeal in limine on the ground of non-prosecution and the same jurisprudence transcends into the situation that the Ld. CIT(Appeals)/NFAC has no power to dismiss an appeal in limine on ground of delay only without referring and discussing the contents of the assessment order and Form 35 and its annexures. Needless to say, the Ld. CIT(Appeals)/NFAC shall afford reasonable opportunity of

being heard to the assessee as per law. Accordingly, the order of the Ld. CIT(Appeals)/NFAC is set-aside.

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

9. In the result, appeal of the assessee is allowed for statistical purposes.”

7. The fact of the matter is that since the assessee has not provided sufficient reasons in terms with Section 249(3) of the Act the appeal was dismissed in limine on law of limitation itself, therefore, balancing the scales of justice, it would be appropriate to provide one final opportunity to the assessee to represent its case before the Ld. CIT(Appeals)/NFAC on the ground of condonation of delay specifically on terms with Section 249(3) of the Act.

8. Having heard the submissions of the Ld. Sr. DR and upon examination of the facts on the ground of delay and following the aforesaid decisions (supra), even without going into the merits of the matter, I find that the purpose of natural justice shall be served if one opportunity is given to the assessee to explain before the Ld. CIT(Appeals)/NFAC the reasons for delay and the said authority shall accordingly decide the issue of condonation of delay in terms with Section 249(3) r.w.s. 250(4) & (6) of the Act. That once delay condoned, the Ld. CIT(Appeals)/NFAC shall adjudicate issue on merits as per law while complying with the principles of natural justice. I order accordingly.

9. As per the above terms grounds of appeal of the assessee are allowed for statistical purposes.

10. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 18th day of February, 2026.

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

रायपुर / Raipur; दिनांक / Dated : 18th 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