

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

**श्री रवीश सूद ,न्यायिक सदस्य
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

**आयकर अपीलसं./I.T.A.No.579/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2019-20)**

Kunkulagunta Mallikarjuna Rao H.No. 32-13-20 Mogalrajapuram B.M. Rao Street, Labbipeta Post Vijayawada Andhra Pradesh - 520010 [PAN: CAFPK2815J]	Vs.	Income Tax Officer, Ward-2(1) Vijayawada Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri B. Seshagiri Rao, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Sri K. Prasad, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	09.02.2026
घोषणा की तारीख/Date of Pronouncement	:	09.02.2026

आदेश /O R D E R

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 31.07.2025, which in turn arises from the order passed by the Assessing Officer (for short, "A.O") under section 147 r.w.s. 144 of the Income-Tax Act, 1961 (for short,

“the Act”), dated 23.03.2024, for the Assessment Year 2019-20. The assessee has assailed the impugned order on the following grounds of appeal:

“1. That under the facts and circumstances of the case the order passed u/s.147 r.w.s. 144 of the Income Tax Act dated 23.03.2024 passed by Assessing Officer Ward 2(1) Vijayawada and upheld by Id. Commissioner of Income Tax (Appeals) NFAC vide order dated 31.07.2025 is contrary to the facts of the case and provisions of law.

2. The Assessing Officer as well as the Ld. Commissioner of Income Tax (Appeals) erred in not considering the submissions filed by the Appellant during the course of the proceedings in proper perspective.

3. The Ld. Commissioner of Income Tax (Appeals) NFAC has erred in dismissing the appeal of the appellant filed against the order of the Assessing Officer by not considering the reason for delay of 210 days though the appellant has shown reasonable cause for the delay, which is due to delay in obtaining confirmation from Canara Bank regarding cash deposits.

4. The Ld. Commissioner of Income Tax (Appeals) NFAC has erred in upholding the addition of Rs.34,00,000/-u/s.68 rws 115BBE towards cash deposits in Canara Bank, Madhuranagar Mogalrajapuram, Vijayawada though the appellant submitted bank account showing no such deposits, as additional evidence along with form 35.

5. The Ld. CIT(A) NFAC has erred in upholding the addition made by Assessing officer of Rs.34,00,000/- u/s.68 rws 115BBE towards cash deposits into Canara Bank account, which is bad at law as section 69 is not applicable for cash deposits into bank account.

6. The Ld. Commissioner of Income Tax (Appeals) NFAC has erred in upholding the addition of Rs.56,468/-u/s.68 rws 115BBE towards credits in Canara Bank Madhuranagar Mogalrajapuram Vijayawada though the appellant submitted bank account showing no such credits, as additional evidence along with form 35.

7. Any other ground/grounds that may be pleaded to be allowed by the Honorable Tribunal at the time of hearing.”

2. Succinctly stated, the AO, based on the specific information flagged as per Risk Management Strategy (RMS) formulated by the CBDT through Insight Portal under the head “NMS cases”, which revealed that the assessee during the subject year had carried

out substantial financial transactions but had not filed his return of income, initiated proceedings under section 147 of the Act. Notice under section 148A(b) of the Act was issued by the then ITO, Ward-2(1), Vijayawada on 28.02.2023. Thereafter, the AO passed an order under section 148A(d) of the Act dated 30.03.2023. Notice under section 148 of the Act dated 30.03.2023 was thereafter issued by the ITO, Ward-2(1), Vijayawada.

3. During the course of the assessment proceedings, the AO observed that the assessee had in the subject year made cash deposits aggregating to Rs. 34,00,000/- in his bank account with Canara Bank. As the assessee had failed to furnish the requisite details in the course of the assessment proceedings, therefore, the AO was constrained to proceed and frame the assessment to the best of his judgment under section 144 of the Act. Accordingly, the AO, vide his order passed under section 147 r.w.s. 144 of the Act, dated 23.03.2024, held the entire amount of cash deposits of Rs. 34,00,000/- as unexplained cash credits under section 68 of the Act. Apart from that, the AO made an addition of interest income on the aforementioned bank account of Rs. 56,468/-. Thus, the AO vide his order passed under section 147 r.w.s. 144 of the Act dated 23.03.2024 determined the income of the assessee at Rs.34,56,470/-.

4. Aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A). Ostensibly, as the assessee had delayed the filing of the appeal before the CIT(A) by 218 days, therefore, the latter, not finding any justification in the explanation advanced by the assessee regarding the reason leading to the delay, dismissed the appeal on the

ground of limitation itself. For the sake of clarity, I deem it apposite to cull out the observation of the CIT(A), as under:

“2. As mentioned above, this appeal was filed on 26.11.2024 against the order u/s 147 read with section 144 passed on ITBA on 23/03/2024. As per Col. 2(c) of Form-35 the order was served on 23/03/2024. In this way the appeal was filed late. As per the provisions of section 249 of the Act appeal was to be filed within 30 days from the date on which the order was served. The appellant mentioned 'Yes' against Column No. 14 of Form 35- "Whether there is delay in filing appeal."

2.1 In the facts of the case filed by the appellant has stated that - " The Assessing Officer has passed the Assessment order on 23/03/2024. There is a delay of 218 days in filing the appeal. The delay is due to delay in obtaining certificate from Canara Bank, MadhunagarMogalrajpuram, Vijayawada which was issued on 28/10/2024 by the Bank. As the delay is not intentional and deliberate the delay may be condoned and appeal may be accepted. This did not appear to be a condonation of delay.

3. Notices u/s 250 of the Act were issued on 19/06/2025, 07/07/2025 and 18/07/2025 for furnishing submissions on or before 04/07/2025, 17/07/2025 and 28/07/2025 respectively through ITBA Portal. The appellant was also required to substantiate the reasons/grounds seeking condonation of delay. These notices were delivered on the mail of the appellant but he did not make any compliance nor filed any further submission with regard to the request for condonation of delay in filing of appeal.

4. It can be seen that the appeal has been filed with a delay of 5 months after the order u/s 147 r.w.s 144 of the IT Act was passed, which is under appeal. Neither any convincing reason/ground for such inordinate delay in filing this appeal has been substantiated nor any documentary evidence in support of submissions made has been filed. If the appellant files an appeal with such inordinate delay of 5 months and seeks condonation of such inordinate delay, it is his duty to explain some plausible and convincing reason/ground and also substantiate the same with adequate facts and documentary evidences. The appellant has utterly failed in discharging such onus. Unless and until some plausible, convincing and specific reasons/grounds are given and these are substantiated with necessary facts and adequate documentary evidences, such inordinate delay of 5 months in filing the appeal cannot be condoned. There is no liberty with an assessee to file appeal after such inordinate delay with such general grounds. Accordingly, the grounds raised by the appellant seeking condonation of delay are not found convincing for granting condonation of delay.

4.1 As per provisions of section 249(3) of the Act the CIT(A) may admit an appeal after the expiration of the said period (of 30 days) if he is satisfied

that the appellant had sufficient cause for not presenting the appeal within the said period (of 30 days). The judgement cited by the appellant have also been considered.

4.2 After evaluating the facts of the present case, I am conscious of the facts that the appellate authorities should not adopt an injustice oriented approach in rejecting the application for condonation of delay. However, the appellate authorities while allowing such application has to draw a distinction between delay and inordinate delay for want of bona fides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the appellate authority for condoning the delay. After having gone through different citations of different forums as well as courts, I have noticed that the Courts have time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the Court cannot condone the delay on general grounds alone.

4.3 Given the facts of this case I am of the view that Courts and appellate authorities are not a "walk- in- place" where appellant can approach whenever they want. The law of Limitation is enshrined in the legal maxim "Interest Republicae Ut Sit FinisLitium (It is for the general welfare that a period be put to litigation). Rules of Limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time. Since the facts of the case in hand are entirely different, now of the judgement cited by the appellant in his submission is helpful and applicable in the instant case.

4.4 To understand the scope of the term "sufficient cause" in matters of delay, reliance is placed on the decision of Hon'ble Supreme Court in the case of Basawaraj and Ors vs The Special Land Acquisition Officer, AIR 2014 SC 746 wherein the Hon'ble Supreme Court held that the sufficient cause does not include the negligent manner in which the applicant had acted or/ and there was a want of bona fide, on his/her part. If a party does not act diligently or remains inactive, it cannot qualify as sufficient ground allowing the court to exercise discretion in favour of such a party. I am further of the view that condonation of delay is not an automatic right but requires the person requesting it to provide a valid explanation for each day of delay and demonstrate a reasonable cause.

4.5 The discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. "Sufficient Cause" cannot be liberally interpreted if negligence, inaction or lack of bona fides is attributing to the party. On this proposition, reliance is placed on the case of Ram Lal &Ors vs Rewa Coalfields Ltd. AIR 1962 Supreme Court 361 wherein the Hon'ble Supreme Court has held that the decision to grant condonation of delay is discretionary even if sufficient cause is proven. Moreover, the Court considers all relevant facts including diligence and good faith but the scope of this enquiry while exercising the discretionary power is limited to only such relevant facts.

4.6 Lastly, reference is made to the case of Anshul Agarwal vs New Okhla Industrial Development Authority (2011) 14 SCC 578 wherein it is held that the reason provided for the delay must be something beyond the individual's control that prevented them from approaching the Court.

4.7 From the facts of this case, I am of the considered view that that decision to condone the delay has to be exercised judiciously and if appellate authorities start condoning delay where "no sufficient cause" is made out then that would amount to violation of statutory principles. Here I rely upon the decision of Hon'ble High Court in the case of Mewa Ram (deceased by L.Rs) &Ors vs State of Haryana, AIR 1987 SC 13, State of Nagaland vs Lipok AO&Ors, AIR 2005 SC 2191 and D. Gopinathan Pillai vs State of Karala&Anr. AIR 2007 SC 2624.

5. In the appellant in the instant case, having considered the facts available on record, the grounds mentioned for inordinate delay of 5 months in filing this appeal are found to be not convincing and not sufficient and hence am not satisfied that the appellant had any sufficient cause for not presenting this appeal for such a long time. Accordingly, the inordinate delay in filing this appeal cannot be condoned. The facts of this case show, that the mistake is not bona fide and the appellant has failed to show sufficient cause to condone the delay. In view of the above decisions and the facts of the case, I do not find merit in the submission to condone the delay of 5 months and thus the application for seeking condonation of delay stands dismissed and consequently the appeal of the assessee is also dismissed.

5.1 In view of above, delay in presenting appeal in this case is not condoned and appeal is dismissed without going in to merits of the appeal.

6. In the result the appeal is dismissed.”

5. The assessee, aggrieved with the order of the CIT(A), has carried the matter in appeal before the Tribunal.

6. Shri B. Seshagiri Rao, Advocate, Ld. Authorized Representative (for short Ld.AR) for the assessee, at the threshold of the hearing of the appeal submitted that the delay in filing the appeal before the CIT(A) had crept in because the assessee was awaiting the certificate of Canara Bank, which he had obtained only on 28.10.2024. The Ld.AR had drawn our attention to the Memorandum of the Appeal, i.e., “Form 35” filed by the assessee, Page No. 26-30 of the Paper Book (APB). The Ld.AR took us through

the statement of facts of the case, wherein at S.No. 9 it was mentioned that the delay of 218 days in filing the appeal before the CIT(A) was for the reason that the certificate from Canara Bank, Madhunagar, Mogalrajpuram, Vijaywada, was issued by the bank on 28.10.2024. For the sake of clarity, I deem it apposite to cull out the reasons leading to the delay in filing of the appeal, as was stated by the assessee before the CIT(A), Page 33 of APB, as under:

“9. Condonation of Delay:

The Assessing Officer has passed the Assessment Order on 23.03.2024. There is a delay of 218 days in filing the appeal. The delay is due to delay in obtaining certificate from Canara Bank Madhunagar, Mogalrajpuram Vijayawada which was issued on 28.10.2024 by the Bank. As the delay is not intentional and deliberate the delay may be Condoned and appeal may be accepted.”

7. The Ld.AR submitted that as the delay in filing the appeal before the CIT(A) had crept in because of a *bonafide* reason and not on account of any lackadaisical approach or conduct of the assessee, therefore, in all fairness, the matter be set-aside to the CIT(A) with a direction to condone the same and dispose of the appeal considering the merits of the case.

8. Per contra, the Learned Senior Departmental Representative (for short, “Ld. DR”) supported the order of the CIT(A). It was submitted by him that, as the assessee had failed to come forth with any plausible explanation for the inordinate delay involved in the appeal filed before the CIT(A), therefore, he had, based on a well-reasoned order, rightly declined to accept the uncorroborated explanation of the assessee and dismissed the appeal on the ground of limitation itself.

9. I have given thoughtful consideration to the contentions advanced by the Learned authorized representatives of both parties regarding the reasons leading to the delay in filing the appeal before the CIT(A).

10. At the threshold, I find it incomprehensible and difficult to fathom the explanation of the assessee that the delay in filing the appeal before the CIT(A) had crept in for the reason that a certificate of a bank was being awaited. In my view, the assessee had, based on his lackadaisical conduct, adopted a very casual approach, which had resulted to an inordinate delay of 218 days in the appeal filed by him before the CIT(A). I say so, for the reason that even if the bank certificate might have a strong bearing on the adjudication of the issue before the CIT(A), but the non-availability of the same with the assessee could by no means justify the inordinate delay involved in the filing of the appeal by the assessee/appellant before the said first appellate authority. In fact, the casual approach and lackadaisical conduct of the assessee is fortified by the fact that even in the course of the assessment proceedings, because of his failure to furnish the requisite details, the AO was constrained to frame the assessment under section 144 of the Act.

11. Be that as it may, I am of firm conviction that, as the assessee had failed to come forth with any plausible explanation regarding the inordinate delay of 218 days involved in filing the appeal before the CIT(A), therefore, the latter had rightly dismissed the same on the ground of limitation itself. I find that the law is well settled that while courts are expected to adopt a liberal approach in considering petitions for condonation of delay where sufficient cause is shown, such liberality cannot be extended to condone

inordinate delay where the explanation is vague, casual, or lacking in bona fides. My aforesaid view is supported by the order of the **Hon'ble Supreme Court in Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 348 ITR 7 (SC)**, wherein it was held as under:

“It is not that a delay of a few days is to be condoned automatically. The law of limitation is founded on public policy. The courts have to exercise discretion only when sufficient cause is shown and not in a routine manner.”

Similarly, in **Basawaraj & Anr. v. Special Land Acquisition Officer (2013) 14 SCC 81**, the **Hon'ble Supreme Court** had observed, as under:

“The expression ‘sufficient cause’ should be construed strictly and not liberally merely to benefit a litigant who is negligent. Delay cannot be condoned merely because the Government or a private party has a good case on merits. The applicant must explain each day’s delay satisfactorily.”

Further, the **Hon'ble Supreme Court in P.K. Ramachandran v. State of Kerala (1997) 7 SCC 556** has categorically held that:

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. Courts have no power to extend the period of limitation on equitable grounds.”

Accordingly, by applying the above principles to the present case, I find that the explanation offered by the assessee regarding the reason leading to the delay in filing the appeal before the CIT(A) does not inspire any confidence and is totally devoid and bereft of any substance. Rather, it appears to be an afterthought to justify the prolonged inaction. I further find that the **Hon'ble Supreme Court in Union of India v. Popular Construction Co. (2001) 8 SCC 470**, has observed that limitation provisions are based on sound public policy — to ensure certainty, finality, and avoidance of stale claims. In the instant case, the assessee has failed to come forth with any plausible explanation

leading to the delay involved in filing the appeal before the CIT(A), therefore, I find no reason to dislodge the well-reasoned view taken by the CIT(A), who had rightly declined to condone the same and dismissed the appeal as barred by limitation. Accordingly, finding no infirmity in the view of the CIT(A), who, in my view, in the absence of any plausible explanation of the assessee regarding the delay involved in filing of the appeal, had rightly dismissed the appeal, I uphold his order.

12. Resultantly, the appeal filed by the assessee is dismissed.

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

Sd/-
(रवीश सूद)
(RAVISH SOOD)
न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 09.02.2026

*Giridhar, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Kunkulagunta Mallikarjuna Rao**
H.No. 32-13-20
Mogalrajapuram, B.M. Rao Street,
Labbipeta Post, Vijayawada
Andhra Pradesh - 520010
2. राजस्व/ The Revenue : **Income Tax Officer, Ward-2(1)**
Vijayawada, Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam