

**IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR BENCH "SMC",**

**(VIRTUAL HEARING : AT PUNE)**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT**

**ITA No.756/NAG/2025  
Assessment Year : 2020-21**

Arthakalash Magasvargiya Karmachari Sahakari Path Swanstha Limited Matoshri Laxmi Heights, Opp. Shefla High School, Anjansingh Road, Juna Dhamangaon, B.O. Dattapur – 444709	<b>Vs.</b>	ITO, Ward-1, Amravati
<b>PAN : AAEEAA1852F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Himesh Demble  
(through virtual)  
Department by : Shri Surjit Kumar Saha Sr.DR  
(through virtual)  
Date of hearing : 05-02-2026  
Date of pronouncement : 19-02-2026

**ORDER**

**PER R. K. PANDA, VP :**

This appeal filed by the assessee is directed against the order dated 30.10.2025 of the Ld. Addl/JCIT(A)-1, Visakhapatnam, relating to assessment year 2020-21.

2. Facts of the case, in brief, are that the assessee is a co-operative credit society and filed its return of income on 15.02.2021 declaring total income at Nil after claiming deduction u/s 80P(2)(a)(i) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') to the tune of Rs.10,28,804/-. The CPC disallowed the

exemption claimed u/s 80P of the Act. The assessee filed a rectification application u/s 154 of the Act. However, no action or further communication was received from the authorities. The assessee, therefore, filed an appeal before the Ld. Addl/JCIT(A). However, the Ld. Addl/JCIT(A) dismissed the appeal on account of delay in filing of the same by observing as under:

**Delay in filing of appeal:**

**2.1** Any delay in filing of appeal can be condoned if there is a sufficient cause for such delay. In the instant case, the appellant has not furnished any reasonable and sufficient cause for the delay. For condoning the delay by the Commissioner of Income Tax (Appeals) u/s.249(3) of the Act, the following conditions have to be satisfied by the appellant:

1. Proven absence of negligence and

2. Presence of satisfactory levels of diligence.

**2.2** As there is 'and' in between, both the above conditions have to be satisfied. Further, the appellant will have to explain reasons for each day of delay, then only delay can be condoned. Reliance is placed on the following decisions:

1. Rankak&Ors. Vs. Rewa Coalfields Ltd. AIR 1962 SC 361 and JCIT vs. Tractors & Farm Equipments Ltd. (ITAT, Chennai – TM) 104 ITD 149 – Party has to show reason for delay on the last day of limitation period and thereafter for each day thereafter – Condonation is not a matter of right – Court has to exercise discretionary jurisdiction.

2. BrijInders Singh Vs. Kanshi Ram AIR 1917-PC-156, Baroda Rayon Corpn. Ltd. (Guj.) 87 STC 266, M. Krishna Rao D. Phalke vs. Trimbak AIR 1938 Nag. 156 and Baldeo Lal Roy vs. State of Bihar (1960) 11 STC 104 (Pat) – Delay in filing the appeal – cause for delay – whether the appellant has acted with reasonable diligence in the prosecuting of his appeal – to be looked into.

3. Mrs. Anita Chadha vs. CIT 189 Taxman 300 (Pb& Haryana) – Whether delay in filing of appeal beyond the period of 120 days prescribed by Sec. 260A(2)(a) can be condoned by entertaining an application u/s.5 of Limitation Act, 1963 – Held – No.

4. CIT vs. Maharashtra State Government Employee Confederation Appeal No. CC3159-3160 of 2009 23.03.2009 (SC) – When the High Court has refused to condone delay of 562 days in filing appeal, we do not see any reason to interfere therewith, more so when the SLP have also delayed. SLP are dismissed both on grounds of delay as also on merit.

**2.3** In the instant case, conditions laid down u/s 249(3) are not fulfilled and there is no sufficient cause for the delay in filing of appeal. I am of the considered opinion that the inordinate delay in filing of appeal cannot be condoned. Therefore, the appeal filed is dismissed.

**3.** In the result, the appeal is '**DISMISSED**'.

3. Aggrieved with such order of the Ld. Addl/JCIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:

1. *That, in the facts and circumstances of the case, the order framed by the Hon'ble Ld. CIT(A) is illegal, unjustified and bad in law.*
2. *That, in the facts and circumstances of the case, the disallowance of Rs.10,28,804/- u/s 80P(2)(a)(i) of the I.T. Act, 1961 is unwarranted and without any basis.*
3. *That, in the facts and circumstances of the case, the assessee ought to have been provided the deduction u/s 80P(2)(a)(i) of the I.T. Act, 1961 as the return is filed within extended due date due to Covid-19 Pandemic.*
4. *That, in the facts and circumstances of the case, the Hon'ble Ld. CIT(A) failed to adjudicate the case on merits and has merely rejected the appeal without allowing the condonation of delay.*
5. *That, in the facts and circumstances of the case, the Hon'ble Ld. CIT(A) ought to have remanded the case back to the file of Ld. A.O.*
6. *That, in the facts and circumstances of the case, the assessee denies the liability to pay interest u/s 234A, 234B and 234C of the I.T. Act, 1961.*
7. *The Assessee craves leave to, add to alter, amend, modify, substitute, delete and/or rescind any of the ground/grounds of the appeal on or before the final hearing of the appeal.*

4. The Ld. Counsel for the assessee submitted that the intimation received by the assessee was through email and it was not received physically. He submitted that the secretary and other managerial persons of the assessee society are staying in rural area and are not well conversant with latest technology. Further, the 154 rectification petition filed has not yet been decided, therefore, there were some bonafide reasons for delay in filing of the appeal before the Ld. Addl/JCIT(A). He submitted that no disallowance has been made either in the preceding years or in the subsequent years. Relying on various decisions including the decision of the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji

& Ors. reported in 167 ITR 471 (SC) and Inder Singh Vs. The State of Madhya Pradesh reported in 2025 LiveLaw (SC) 339, he submitted that the delay in filing of the appeal should be condoned and the appeal be decided on merit.

5. The Ld. DR on the other hand strongly relied on the order of the Ld. Addl/JCIT(A). He submitted that since there is no justifiable reasons in filing of the appeal with such huge delay, therefore, the Ld. Addl/JCIT(A) was justified in dismissing the appeal on account of delay in filing of the same.

6. I have heard the rival arguments made by both the sides and perused the orders of the AO / CPC and the Ld. Addl/JCIT(A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me. It is an admitted fact that the assessee filed the return of income on 23.12.2020 and the intimation u/s 143(1) of the Act was passed on 23.12.2021. The assessee filed the appeal before the Ld. Addl/JCIT(A) on 16.05.2025 with a delay of about 1211 days which was dismissed by the Ld. Addl/JCIT(A) on account of delay. It is the submission of the Ld. Counsel for the assessee that the intimation was not physically received but was received through email and since the managerial persons are not well conversant with the technology, therefore, the said intimation remained to be noticed. However, when the assessee came to know of the intimation, it filed a rectification application before the jurisdictional Assessing Officer which is still pending. Left with no other option, the assessee filed an appeal with a delay of about 1211 days before the Ld. Addl/JCIT(A). It is

also his submission that in the preceding and subsequent assessment years the claim of deduction u/s 80P of the Act has been allowed and no disallowance was made.

7. I find some force in the above arguments of the Ld. Counsel for the assessee. A perusal of the details furnished by the assessee shows that the intimation was issued through email on 23.12.2021 and no physical intimation was sent to the assessee. Further the submission of the Ld. Counsel for the assessee that in the preceding and subsequent assessment years no such disallowance has been made could not be controverted by the Ld. DR. It is also an admitted fact that after the intimation was received the assessee has filed a rectification application u/s 154 of the Act before the jurisdictional Assessing Officer which is still pending and therefore, it cannot be said that the assessee was defiant or callous or the delay in filing of the appeal was deliberate.

8. I find the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. (supra) has held that 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. 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.

9. I find recently the Hon'ble Supreme Court in the case of Inder Singh Vs. The State of Madhya Pradesh reported in 2025 LiveLaw (SC) 339 has held as under:

*“14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.”*

10. In the light of the above decisions of Hon'ble Supreme Court cited (supra), I deem it proper to restore the issue to the file of the Ld. Addl/JCIT(A) with a direction to condone the delay and decide the appeal on merit after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to make its submissions, if any, on the appointed date without seeking any adjournment under any pretext failing which the Ld. Addl/JCIT(A) is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 19<sup>th</sup> February, 2026.

**Sd/-**  
**(R. K. PANDA)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 19<sup>th</sup> February, 2026  
GCVSR

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Nagpur
4. DR, ITAT, 'SMC' Bench, Nagpur
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Assistant Registrar  
आयकर अपीलीय अधिकरण ,पुणे  
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	09.02.2026		Sr. PS/PS
2	Draft placed before author	10.02.2026		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
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10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			