

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC”BENCH: BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

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| ITA No.2342/Bang/2025 |
| Assessment Year: 2020-21 |

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| Sri Sai Souhardha Credit Co-operative Society Ltd. Opp. Old Middle School (BDO Office) Doddapet Kolar 563 101 PAN NO :AAFAS3893P | Vs. | ITO Ward 1 Kolar |
| APPELLANT | | RESPONDENT |

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|----------------------|---|---------------------------|
| Appellant by | : | Sri R Chandrashekar, A.R. |
| Respondent by | : | Sri Ganesh R Ghale, D.R. |

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| Date of Hearing | : | 17.12.2025 |
| Date of Pronouncement | : | 24.02.2026 |

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This Appeal at the instance of the assessee is directed against the order of Id. CIT(A)/NFAC dated 18.08.2025 vide DIN and Order No: ITBA/NFAC/S/250/2025-26/1079679209(1) passed u/s. 250 of the income Tax Act, 1961 (in short “the act”) for the AY 2020-21.

2. The assessee has raised the following Grounds of appeal:-

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|-----------------------------------|---|----------------|
| 1. | The learned Commissioner of Income Tax (Appeals) erred in dismissing the appeal filed for the A.Y. 2020-21 in LIMINE. | Rs.13,70,165/- |
| 2. | The Learned Commissioner of Income Tax (Appeals) has not considered the letter given by the Chartered Accountant, Mr. Ravindranath K.I, for the lapses in communicating the order of assessment, which lead to delay in filing the appeal, though a copy of the letter was placed along with written submissions. | |
| 3. | The learned Commissioner of Income Tax (Appeals) erred in not condoning the delay in filing the appeal and in holding that there exists no sufficient and good reason for condoning the delay. | |
| 4. | The Learned Commissioner of Income Tax (Appeals) ought to have appreciated that the appellant has a good case on merits and which disallowances are against the judicial pronouncements. | |
| 5. | The Order of the Learned Commissioner of Income Tax (Appeals) is not sustainable either on law or on facts of the appellant's case. | |
| Total tax effect (see note below) | | Rs.13,70,165/- |

3. The brief fact of the case are that the assessee is a Credit Co-operative Society registered under the Karnataka Souhardha Federal Co-operative Act 1997 vide registration certificate no: DRS/REG/282/CR/7/2010-11 dated 16/07/2010 issued by Deputy Registrar of Co-operative, Kolar, Karnataka. The assessee filed its return of income for the AY 2020-21 on 29/12/2020 declaring gross total income of Rs.40,61,023/- and claim deduction u/s. 80P of the Act amounting to Rs.40,61,023/- under chapter-VIA of the Act and thus declared net income for taxation at Rs.NIL.

The case of the assessee was thereafter selected for complete scrutiny to verify low income in comparison to high loan/ advances, deduction from total income under chapter-VIA of the Act. Accordingly, notices u/s. 143(2) as well as 142(1) of the Act were issued along with the detailed questionnaire. The AO on perusal of the details available from ROI filed by the assessee, seen that the assessee has earned income from other sources as under:-

| Nature of Income | Amount |
|-----------------------------------|-----------------|
| Processing Fees | 1,16,843 |
| Share Entry Fees | 39,024 |
| E-stamping Service Fees | 4,84,916 |
| E-stamping Fee Mulbagal | 48,000 |
| Miscellaneous income | 5 |
| O.B.C. & L.B.C Collection Charges | 16,045 |
| e-stamping Income | 13,014 |
| Total | 7,17,847 |

The AO observed that as the other income of Rs. 7,17,847/- which forms part of net profit, do not fall under the ambit of section 80P(2)(a)(i) of the Act, the same is not eligible for deduction. The assessee contended that main income of the assessee is interest from loans and advances. The assessee is accepting deposits from own share holders/ members and lending to own share holders/ members only. The assessee issued e-stamp paper and getting commission and following mercantile system of accounting consistently. The ld.AO however held that processing fees, share entry fees, e-stamping service fees and e-stamping fees Mulbagal is not a part of business of providing credit facilities to its members. Such an income is not the operational income of the assessee society from providing from credit facilities to its members. Thus, above income amounting to Rs.7,17,847/- are not eligible for

deduction u/s. 80P(2)(a)(i) of the Act and added to the total income of the assessee as income from other sources.

3.1 Further, the AO noticed that the assessee Co-operative society had received interest amounting to Rs.27,96,538/- from various banks on investments and said interest is received from National Banks and Private Banks and not from the Co-operative society who are not member of the assessee Co-operative Society. As the interest income received is not attributable to the business activities carried out by the assessee, the deduction claimed u/s. 80P(2)(a)(i) of the Act is not allowable. The assessee contended that the assessee is a credit Co-operative society engaged in the business of providing loans to its own members/ share holders and accepting deposits from members/ share holders and therefore interest income is eligible for deduction u/s.80P(2)(a)(i) of the Act. Further, the assessee stated that in AY 2018-19, the deduction u/s.80P was allowed on such interest receipts.

3.2 The AO on the other hand found that the business income includes interest income of Rs.27,96,538/- which is received on investments in co-operative banks/ commercial banks out of the surplus funds of the society. Any interest income arising from deposits/ investment of funds in banks is in the nature of "Income from other sources" forms part of the income u/s. 56 of the Act and cannot be categorized as income from profit and gains of business of the assessee. Since the deduction u/s. 80P(2)(a)(i) available only for the profit and gains of business, the said deduction is not available to the interest income which is in the nature of "other income" which is not attributable to the business activity and accordingly interest income earned by the society to the tune of Rs.27,96,538/- was held to be not eligible for deduction u/s. 80P(2)(a)(i) of the Act and added to the total income of the assessee

as “income from other sources”. The AO, thus completed the assessment proceedings u/s. 143(3) r.w.s 144B of the Act on a total assessed income of Rs.35,14,385/- as against NIL income declared by the assessee.

4. Aggrieved by the order of the AO passed u/s. 143(3) of the Act on 12/09/2022, the assessee preferred an appeal before the Id.CIT(A)/NFAC.

5. The Id.CIT(A)/NFAC dismissed the appeal of the assessee in limine by not condoning the huge delay of 840 days in filing the appeal before him by holding that assessee has furnished the vague and general reason for delay in filing the appeal & there is no sufficient cause.

6. Again aggrieved by the order of Id.CIT(A)/NFAC, dated 18/08/2025, the assessee has filed the present appeal before this Tribunal. The assessee has also filed an judgement of Hon'ble Supreme Court of India in the case of Inder Singh vs. The State of Madhyapradesh reported in 2025 INSC 382 in support of its claim.

7. Before us, the Id.AR of the assessee vehemently submitted that there was a sufficient and bonafide reason in filing the appeal belatedly before the Id.CIT(A)/NFAC. Further, the Id. AR of the assessee heavily relied upon the case of Collector (LA) v. Katiji [Collector (LA) v. Katiji, (1987) 2 SCC 107], wherein the Court noted that it had been adopting a justifiably liberal approach in condoning delay and that “justice on merits” is to be preferred as against what “scuttles a decision on merits”.

8. The Id. DR on the other hand supported the order of Id.CIT(A)/NFAC and vehemently submitted that the assessee is very

callous in its approach in filing the appeal before the Id.CIT(A)/NFAC and accordingly prayed that the appeal may be dismissed in limine without condoning the delay as there is no sufficient cause demonstrated by the assessee.

9. We have heard the rival submission and perused the material available on record. On going through the order of Id.CIT(A)/NFAC we take a note of the fact that Id.CIT(A)/NFAC dismissed the appeal of the assessee in limine by not condoning the huge delay of 840 days in filing the appeal before him. Further, on going through the reason submitted by the assessee through an affidavit sworn before the notary public dated 25/01/2025, we take a note of the fact that main cause for delay as contended by the assessee is that the assessee had engaged Sri. K.I.Ravindranth, Chartered Accountant having office at Challakere, Chithradurga District to file Income Tax Returns and has been looking after income tax related works. It is submitted that the email id provided in the e-filing portal of the assessee was that of Sri. K.I. Ravindranth, Chartered Accountant. The Chartered Accountant on behalf of the assessee filed particulars required for completion of assessment proceedings. The assessee got know of the order passed u/s. 143(3) of the Act only when the refund due for AY 2024-25 got adjusted and had received a call from the Department for payment of outstanding demand. The assessee was under the bonafide believe that Sri. K.I. Ravindranth, Chartered Accountant have taken necessary steps with regard to assessment order passed for the AY 2020-21. The assessee when contacted Sri. K.I. Ravindranth, Chartered Accountant about the refund adjustment and demand outstanding, the assessee has been informed that no appeal is filed for AY 2020-21. Thereafter, the assessee got the order downloaded and sought the professional help in filing the appeal and in the process there is a delay 840 days in filing the appeal for the AY 2020-21.

9.1 On going through the above explanations offered in the condonation application as well as affidavits filed before the Id. CIT(A)/NFAC, we take note of the fact that the sole ground advanced for the delay is that the assessee engaged Sri. K.I. Ravindranth, Chartered Accountant for income tax related works. It is also submitted by the assessee that the chartered accountant on behalf of assessee also filed particulars required for completion of assessment proceedings for the A.Y. 2020-21. Thereafter, the assessee got to know of the order passed u/s 143(3) of the Act dated 12/09/2022 after a gap of more than 2 (two) years.

9.2 In view of the contention of the assessee, it is imperative to examine if the assessee was diligent after handing over the brief to the Chartered Accountant to escape his latches? It is an undisputed fact that the Id. CIT(A)/NFAC dismissed the appeal of the assessee by holding that the assessee had furnished a vague and general reason for delay. The Crux of the reasons put forth by the assessee in support of the delay in filing the appeal against the assessment order is that his Chartered Accountant (AR) did not inform the assessee about passing of assessment order & demand notice. The Id. CIT(A)/NFAC, however, verified the assessment records & found that the assessee is registered on e-filing portal and all the notices as well as the order u/s 143(3) of the Act was shared with the assessee on e-filing portal. We are of the considered opinion that the AO passed an order u/s 143(3) of the Act on 12/09/2022. The assessee should have clearly demonstrated what were the steps they had taken for past 840 days as the assessee was fully aware of the facts that the assessment proceedings were going on for the AY 2020-21. In our opinion the assessee itself slept over the matter & never ever enquired the outcome of the assessment proceedings. We are of the considered opinion that the assessee is very callous in its approach in filing the appeal before

the ld. CIT(A)/NFAC. We also failed to understand why a professional Chartered Accountant will not inform his clients about the outcome of the assessment proceedings in which he was engaged & also not charge/collect his fees for his professional work for more than 2 years.

9.3 It is apt to mention that the law of limitation is the impediment of the Maxim Vigilantibus Non Dormienteibus Jura Subvenitent that ensures the case is filed within the stipulated time frame to avoid unnecessary delays. On the other hand, the condonation of delay is the safeguard to the law of limitation and bars certain cases in which the delay in filing the appeal is justifiable i.e. can be backed by having “sufficient cause”

9.4 In the case in hand, the delay occasioned in bringing the appeal before the ld. CIT(A)/NFAC was 840 days. We are of the considered opinion that there was no sufficient cause demonstrated by the assessee in filing the appeal with a huge delay of 840 days. In fact the assessee is trying to shift the entire blame on a Chartered Accountant. The plea advanced only to get out of the rigor of law. Rather, it can be said that the assessee had made an attempt to take a false plea to overcome the issue of limitation though they themselves remained callous to its own cause.

9.5 The Apex court in the case of Rajneesh Kumar & Anr. Vs. Ved Prakash in SLP (Civil Nos.935-936 of 2021 dated 21.11.2024) held as follows:

*“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as **the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his***

instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.

11. In the aforesaid context, we may refer to a decision of this Court in the case of Salil Dutta v. T.M. & M.C. Private Ltd. reported in (1993) 2 SCC 185, wherein this Court observed as under:-

“8. The advocate is the agent of the party. His acts and statements, made within the limits of authority given to him, are the acts and statements of the principal i.e. the party who engage him. It is true that in certain situations, the court may, in the interest of justice, set aside a dismissal order or an ex parte decree notwithstanding the negligence and/or misdemeanour of the advocate where it finds that the client was an innocent litigant but there is no such absolute rule that a party can disown its advocate at any time and seek relief. No such absolute immunity can be recognized. Such an absolute rule would make the working of the system extremely difficult. The observations made in Rafiq [AIR 1981 SC 1400] must not be understood as an absolute proposition. As we have mentioned hereinabove, this was an on-going suit posted for final hearing after a lapse of seven years of its institution. It was not a second appeal filed by a villager residing away from the city, where the court is located. The defendant is also not a rustic ignorant villager but a private limited company with its head office at Calcutta itself and managed by educated businessmen who know where their interest lies. It is evident that when their applications were not deposed of before taking up the suit for final hearing they felt piqued and refused to appear before the court. May be, it was part of their delaying tactics as alleged by the plaintiff. May be not. But one thing is clear they chose to non-cooperate with the court. Having adopted such a stand towards the court, the defendant has no right to ask its indulgence. Putting the entire blame upon the advocate and trying to make it out as if they were totally unaware of the nature or significance of the proceedings is a theory which cannot be accepted and ought not to have been accepted.”

(Emphasis supplied)

12. As regards the law of limitation, we may refer to the decision of this Court in Bharat Barrel & Drum MFG Co. v. The Employees State Insurance Corporation, (1971) 2 SCC 860, wherein this Court held as under:-

“The necessity for enacting periods of limitation is to ensure that actions are commenced within a particular period, firstly to assure the availability of evidence documentary as well as oral to enable the defend and to contest the claim against him; secondly to give effect to the principle that law does not assist a person who is inactive and sleeps over his rights by allowing them when

challenged or disputed to remain dormant without asserting them in a Court of law. The principle which forms the basis of this rule is expressed in the maxim vigilantibus, non dormientibus, jura subveniunt (the laws give help to those who are watchful and not to those who sleep). Therefore, the object of the statutes of limitations is to compel a person to exercise his right of action within a reasonable time as also to discourage and suppress stale, fake or fraudulent claims.”

(Emphasis supplied)

13. In view of the aforesaid, we find no error not to speak of any error of law in the impugned judgment of the High Court warranting interference in exercise of our jurisdiction under Article 136 of the Constitution of India.”

9.6. The Hon’ble Delhi High Court in the case of Rahul Mavi in WP(C) No.17704/2024 dated 18.12.2024 has deprecated the practice of shifting to the shoulder of the counsel, the negligence in approaching the court. The relevant observation made by the Hon’ble High Court is as under:

“4. We also disapprove the unwholesome practice of seeking to explain away inordinate delay and laches on approaching the Court on the mere ground that the Counsel who had been dealing with, or entrusted, the matter, was tardy, negligent, or indolent. At times, this assertion is sought to be supported by an assertion that the litigant has approached the Bar Council concerned against the counsel.

5. We emphatically disapprove of this practice of shifting, to the shoulders of the Counsel, the negligence in approaching the Court. It is easy, in such circumstances, to file a complaint before the Bar Council and seek to explain away the delay. We deprecate this. A litigant does not abandon all responsibility to keep track of a matter, once it is entrusted to Counsel.

6. That said, if, in fact, the Counsel has been negligent, the litigant would have to place, on record, material to indicate that she, or he, has been in touch with the Counsel during the entire period of delay, and that the Counsel has been misleading her, or him. This material must be acceptable, and convincing. The Court has to be satisfied that, in fact, the Counsel has been misleading the client, and that this explains the entire period of delay in approaching the Court. Of course, if the Court is so satisfied, and an innocent litigant has been led up the garden path by an unscrupulous Counsel, the court would not allow injustice to be done, and would, in an appropriate case, condone the delay.”

9.7 Recently, the Hon'ble Supreme Court in H. Guruswamy & Ors. Vs. A. Krishnaiah (Civil Appeal No.317 of 2025 dated 8.1.2025) has observed as under:

13. *“We are at our wits end to understand why the High Court overlooked all the aforesaid aspects. What was the good reason for the High Court to ignore all this? Time and again, the Supreme Court has reminded the District judiciary as well the High courts that the concepts such as “liberal approach”, “Justice oriented approach”, “substantial justice” should not be employed to frustrate or jettison the substantial law of limitation.*

14. *We are constrained to observe that the High Court has exhibited complete absence of judicial conscience and restraints, which a judge is expected to maintain while adjudicating a list between the parties.*

15. *The rules of limitation are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly.*

16. *The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be nondeliberate 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. 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 is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.*

17. *We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the ‘Sword of Damocles’ hanging over the head of a litigant for an indefinite period of time.”*

9.8 In view of the principle enunciated by Hon'ble Supreme Court, we are of the considered opinion that it is not a fit case to condone the inordinate delay of 840 days as the assessee failed to offer any “sufficient cause” explaining the delay. Therefore, the Id.

CIT(A)/NFAC had correctly dismissed the appeal in limine by not condoning the huge delay of 840 days.

9.9 Accordingly, we dismiss the appeal of the assessee by not condoning the delay in filing the appeal before the ld. CIT(A)/NFAC.

Order pronounced in the open court on 24th Feb, 2026

Sd/-
(Prashant Maharishi)
Vice President

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 24th Feb,2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.