

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.96/RPR/2026**

**निर्धारण वर्ष / Assessment Year : 2017-18**

Vinod Kushwaha  
MIGB/87, Chandel Nagar,  
Bilaspur (C.G.)-494-001  
PAN: AHOPK2592A

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Income Tax Officer,  
Ward-Jagdalpur

.....प्रत्यर्थी / Respondent

Assessee by : Shri Vinod Kushwaha, Assessee  
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 25.02.2026

घोषणा की तारीख / Date of Pronouncement : 25.02.2026

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

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 29.11.2023 for the assessment year 2017-18 as per the grounds of appeal on record.

2. At the very outset, it is noted that the appeal is time barred by 735 days. That explaining the reasons of the said delay, the assessee has filed condonation petition and affidavit, dated 05.02.2026 a/w. medical certificates. The assessee who appeared himself submitted that from 2017 onwards, he is suffering from various medical ailments, due to which, the said delay has occurred. The relevant contents of the said affidavit are extracted as follows:

**AFFIDAVIT**

**BEFORE THE HON'BLE INCOME-TAX APPELLATE TRIBUNAL  
RAIPUR BENCH, RAIPUR  
CHHATTISGARH**

**Name of the Appellant: Shri Vinod Kushwaha  
PAN / Status: AHOPK2592A**

**APPLICATION FOR CONDONATION OF DELAY IN FILING APPEAL**

**Most Respectfully Submitted:**

The appellant most humbly begs to submit as under:

1. That the appellant was working as a Senior Reporter with News 18 at Jagdalpur from the year 2010 till April 2022. Thereafter, he was transferred to Bilaspur and accordingly shifted his residence to Bilaspur.
2. That the appellant was suffering from a serious medical ailment (tumour) during the period 2017 to 2019. Due to deterioration of health, the appellant was admitted to Apollo Hospital on 04.01.2019 and underwent surgery. During this prolonged period of illness, the appellant was not in a position to attend to routine matters and was also not aware of the notices issued by the Income Tax Officer, Jagdalpur.
3. Copies of medical prescriptions and clinical findings issued by Apollo Hospital are enclosed herewith for the kind perusal of this Hon'ble Tribunal.
4. That subsequently, the appellant's counsel attended the proceedings on his behalf. However, due to the appellant's continuous medical issues and the prevailing COVID-19

pandemic situation, the appellant himself could not effectively follow up or participate in the proceedings.

5. That the assessment order was received by the then counsel, and an appeal was filed before the Hon'ble Commissioner of Income Tax (Appeals). In Form No. 35, the email ID and mobile number mentioned belonged to the earlier counsel.
6. That the learned CIT(A) was pleased to pass the appellate order dated 29.11.2023. As the appellant had already shifted to Bilaspur, the said appellate order was never received by him. The counsel has also categorically stated that he did not receive the appellate order.
7. That the appellant became aware of the existence of the appellate order only when his bank account was attached, due to which he was unable to operate the account.
8. Thereafter, upon contacting the Income Tax Officer, Jagdalpur, the appellant was informed about the appellate order. On the advice of the said officer, an application was made for providing a copy of the appellate order, which was ultimately received by the appellant on 29.01.2026.
9. That the delay in filing the present appeal has occurred due to the aforesaid bona fide reasons and circumstances, which were completely beyond the control of the appellant. The delay is neither intentional nor attributable to any negligence or lack of due diligence on the part of the appellant.
10. That the appellant has a good case on merits and grave prejudice would be caused if the delay is not condoned.

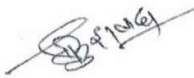
#### PRAYER

In view of the facts and circumstances stated above, the appellant most humbly prays that this Hon'ble Tribunal may kindly be pleased to condone the delay of **735 days** in filing the present appeal and admit the same for adjudication on merits, in the interest of justice and equity.

And for this act of kindness, the appellant, as in duty bound, shall ever pray.

Place: Bilaspur

Date: 05/02/2026



Vinod Kushwaha

3. Per contra, the Ld. Sr. DR submitted that the appellate order was passed by the Ld. CIT(Appeals)/NFAC on 29.11.2023 and there was substantial delay of 4 years (approx.) in filing appeal from the period as claimed by the assessee in his affidavit. However, it is understood that the

assessee was suffering from serious medical ailment (tumor) during the period 2017-2019.

4. I have heard the submissions of the parties herein and perused all the documents placed on record. It was submitted by the assessee that he is suffering from kidney problem. That further twice he was operated for tumor inside his throat. The assessee has also annexed all the medical certificates a/w. the affidavit. Considerably due to the continuous medical ill-health condition, the assessee could not communicate with the erstwhile counsel whose email id was provided in Form 35 and the erstwhile counsel had also not communicated to the assessee regarding passing of the appellate order. I am of the considered view that it is within the purview of human probability, due to such severe ill-health, the assessee could not follow up the matter with his counsel regarding passing of the appellate order. Consequent thereto, the said delay of 735 days has occurred in filing of this appeal. The Revenue has not brought on record any evidence suggesting deliberate or malafide conduct on the part of the assessee for this delay. Considering the judicial pronouncements viz. (i) **Collector, Land Acquisition Vs. Mst. Katiji & Ors, reported in 167 ITR 471 (SC)**; (ii) **Vidya Shankar Jaiswal Vs. ITO, Ward-2, Ambikapur, Civil Appeal Nos...../2025 [Special Leave Petition (Civil) Nos. 26310-26311/2024, dated 31.01.2025]**; (iii) **Jagdish Prasad Singhania Vs. Additional Commissioner of Income Tax (TDS), Raipur**

**(C.G.), TAX Case No.17/2025, dated 24.02.2025** and (iv) **Inder Singh Vs. the State of Madhya Pradesh, Civil Appeal No...../2025, Special Leave Petition (Civil) No.6145 of 2024, dated 21<sup>st</sup> March, 2025**, the said delay of 735 days is condoned and the matter is heard on merits.

5. In so far as merits of the matter are concerned, it is noted that as evident from Page 1 & 2 of the Ld. CIT(Appeals)/NFAC's order, an ex-parte order has been passed by the said authority due to non-compliance by the assessee. The relevant observations of the Ld. CIT(Appeals)/NFAC are extracted as follows:

“Further, the fresh Notice u/s. 250 of the Income Tax Act, 1961 were issued to the assessee as per the chart mentioned below:

Notice to the assessee	Date of hearing	Remarks
23.02.2021	02.03.2021	No reply
08.09.2023	18.09.2023	No reply
19.09.2023	26.09.2023	No reply
02.11.2023	10.11.2023	No reply

However, no reply has been received from the assessee. Under the circumstances the appeal is hereby decided on merits on the basis of material of facts, Grounds of appeal replies filed in earlier submission and other material placed on record.”

6. In the aforesaid facts and circumstances, this Bench had provided one final opportunity to the assessee to represent the matter on merits

before the First Appellate Authority and had accordingly remanded the matter to the file of the Ld. CIT(Appeals)/NFAC relying on the decision of the **ITAT, "Division Bench", Raipur** in the cases of **Brajesh Singh Bhadoria Vs. Dy./ACIT, Central Circle-2, Naya Raipur, IT(SS)A Nos. 1 to 6, 8 & 9/RPR/2025, dated 20.03.2025**. However, in the present case, the assessee himself had appeared and submitted that from 2017 onwards, he is suffering from various medical ailment as also affirmed by him in his affidavit filed on record. He has also filed medical certificates demonstrating the truthfulness of his condition. That at the same time, the Revenue had attached his bank account, for which, he has submitted that he was unable to meet his day to day expenses and that he is finding it difficult to live. He had also stated in the open court that if the bank account is not released, in such circumstance, he would not be able to live. He had submitted that post operation of tumor and since at present both his kidney are damaged, he is constantly under medical supervision and medicines are required every day for which he is unable to pay any money for his medical treatments and food. In this regard, the Bench has directed the Ld. Sr. DR to take up the matter with the Pr. CIT and had suggested to the assessee to make a separate application altogether on this aspect and present it before the Department through proper assistance from the Ld. Sr. DR. Considering these facts and circumstances on record, this Bench finds the present case suitable to

write this order as an exception to the principle of consistency regarding remanding the matter to the file of the Ld. CIT(Appeals)/NFAC and instead for the present assessee before me. I, therefore, set aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter to the file of A.O to pass denovo order as per law complying with the principles of natural justice.

7. That once this matter is remanded to the file of A.O for denovo adjudication, the present demand raised in the hands of the assessee through the earlier assessment order becomes non-est. The A.O shall accordingly provide appeal effect of this order. Before parting, this Bench as well suggests to the Income Tax Department with belief and conviction of such compliance by them to be more humanitarian and considerate in its approach to consider practical difficulties of an assessee tax payer before resorting to strictest of measures as per law. After all, our Constitution guarantees the Fundamental Right to live as per Article 21 to all citizens of this country.

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

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

Order pronounced in open court on 25<sup>th</sup> day of February, 2026.

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

रायपुर / Raipur; दिनांक / Dated : 25<sup>th</sup> 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