आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मंजुनाथ जी, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha G. Accountant Member

आ.अपी.सं /**ITA Nos. 2050 & 2079/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2012-13)

Smt. Paran Jyothi Thota Hyderabad PAN:AJQPT7772F	Vs.	Asstt. CIT Circle 5(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Advocate C. Anurag	
राजस्व द्वारा/Revenue by:	Dr. Sachin Kumar, Sr. DR	
सुनवाई की तारीख/Date of hearing:	12/02/2026	
घोषणा की तारीख/Pronouncement:	25/02/2026	

आदेश/ORDER

Per MANJUNATHA, G. A.M.

These two appeals filed by the assessee are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 09/09/2025 and 25/09/2025, for the Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal in ITA No.2050/Hyd/2025 for the A.Y 2012-13:

V. GROUNDS:

10. At the outset it is submitted that Respondent No.1 erred in dismissing the appeal on the ground of limitation without properly appreciating that the Assessment Order dated 23.12.2019 was never served on the Appellant either physically or electronically, and that the Appellant had acquired knowledge of the completion of proceedings only after the Penalty Order dated 25.03.2022 was communicated to the email address of her sister on 25.03.2022, the receipt of which was subsequently informed to the Appellant.

11. It is further submitted that the said Respondent further erred in not appreciating the fact that the Appellant is of limited means having no tax history and does not possess experience in dealing with the Income Tax web portal. The Respondent failed to understand that the Appellant had to obtain professional assistance merely to discover that proceedings had

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been passed against her as the assessment proceedings, including the penalty proceedings were never properly communicated to her and as such could not have reasonably been expected to participate in or challenge the assessment proceedings within time.

12. It is submitted that without considering the above points, the Respondent merely adopted a hyper-technical approach in rejecting the prayer for condonation of delay by stating that "since these were e-proceedings, the assessment order was communicated on digital mode" for rejecting the appeal on the ground of limitation. The Respondent therefore erred in rejecting the explanation for delay without calling for any verification from the Assessing Officer regarding actual communication of the assessment order and without appreciating the bona fide shown for the delay.

13. It is therefore submitted that the Respondent No.1 erred by relying on multiple irrelevant judicial precedents while dealing with condonation of delay and failed to apply the liberal interpretation mandated by the Supreme Court in ***Collector, Land Acquisition v. Mst. Katiji*** wherein it was held as under:

> "4. 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.
>
> 5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides.

A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

14. It is pertinent to mention that the precedents relied upon by Respondent No.1 are especially irrelevant as they pertain to situations wherein the assessment proceedings were effectively communicated to the respective assesses, who consequently failed to seek remedy against them in time. Whereas, in the present case, the Appellant had never received any communication regarding the assessment proceedings. It is submitted that the Appellant could not submit any documents or place her contentions before Respondent No.2 as she was unaware of the proceedings conducted by the said authority. The Appellant however, filed a detailed appeal before Respondent No.1 enclosing thereunder all the documents, relied upon by her.

15. It is submitted that the Order dated 09.09.2025 passed by Respondent No.1 is a non-speaking mechanical Order on the ground of condonation of delay by placing reliance on irrelevant precedents, thereby violates Section 250(6) of the Act which requires passing of a reasoned Order. Therefore, on these grounds alone the Order passed by Respondent No.1 deserves to be set-aside.

16. It is submitted that Respondent No.1 erred in failing to consider the fact that although the Appellant was a signatory to the alleged sale deed dated

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09.08.2011, she never had any right over the property and that her mother was the sole owner of the property as evident from the pattadar passbook. It is submitted that the said Respondent failed to consider that having no legal right over the property, the Appellant could not have the power to transfer and as such the signature on the sale had no legal enforceability. Copy of the patta passbook pertaining to the property is enclosed as **Annexure – H**.

17. It is submitted that having gone through the Lok Adalat compromise, the said Respondent failed to appreciate that the Appellant was merely restrained from making any future claim over the property and did not have any actual ownership. It is submitted that any amounts mentioned thereunder could not have been taxed under the head Capital Gains in the hands of the Appellant as erroneously computed by Respondent No.2 under the Income Tax Act, 1961, since the Appellant did not possess any ownership rights over the property (capital asset) in question. Copy of the Lok Adalat proceedings in P.L.C No.343 of 2011 is enclosed as **Annexure – I**.

18. It is submitted that the Respondent No.1 seriously erred in assuming that under point no.2 of the compromise agreement passed by the Lok Adalat, that the amounts were paid to the Appellant, party as cash and partly as bank transfer. It is submitted that a plain reading of the said point clearly states that "Respondents No.1 to 3 took 1/3rd share each from the sale proceeds." It is submitted that as per the Order passed by Respondent No.1 it is an admitted fact that the present Appellant was named as Respondent

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No.4 in the proceedings. This clearly establishes the fact that the present Respondent did not receive any amounts in furtherance of the sale neither in cash nor as bank transfer. It is submitted that the said interpretation of Respondent No.1 was purely assumptive and directly contradicts the very document it places reliance on in support of such frivolous contention.

19. It is further submitted that while passing the impugned Order dated 09.09.2025, the Appellate Commissioner, despite considering the aforementioned documents filed by the Appellant, failed to take into account the Pattadar Pass Book and the terms of the Lok Adalat Compromise enclosed as Annexures – C & D in the Appeal before Respondent No.1, which prove the contentions of the Appellant that she is neither the owner of the property nor had received any consideration towards the transfer of the same.

20. It is therefore submitted that the Appellant does not possess any right, title, or interest over the property sold vide Sale Deed dated 09.08.2011 and had only signed the said deed under an obligation. It is pertinent to mention the statement recorded under clause 2 of the compromise agreement before the Lok Adalat clearly establishes that despite being a signatory to the Sale Deed, the present Appellant did not receive any proceeds as consideration.

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21. It is submitted that, to attract tax under the head "Capital Gains," there must be a transfer of a right in a capital asset from one person to another. However, a person cannot transfer an asset over which they do not hold title. In the present case, the Appellant does not possess any ownership or title over the property and therefore, no tax liability under the head "Capital Gains" can arise in her hands. The mere existence of the Appellant's signature on the sale deed neither affects the validity of the transfer nor confers upon her any right, title, or interest in the said property, and hence holds no legal significance. The Appellant cannot be subjected to tax based on mere assumptions of the Respondents without due consideration given to the evidence provided during the Appeal.

22. Therefore, the Appeal rejection Order dated 09.09.2025 vide DIN: ITBA/NFAC/S/250/2025-26/1080487055(1) passed by Respondent No.1 in upholding the Assessment Order dated 23.12.2019 thereby confirming the tax demand of Rs.10,17,150/-, together with interest and penalty are illegal, unsustainable in law or on facts, without jurisdiction, assumptive in nature, contrary to principles of substantial justice as enumerated by the Hon'ble Supreme Court and hence liable to be set-aside else the Appellant would be put to irrevocable loss.

VI. PRAYER:

For the aforementioned reasons, this Hon'ble Tribunal may be pleased to set-aside the Appeal rejection Order dated 09.09.2025 vide DIN: ITBA/NFAC/S/250/2025-26/1080487055(1) passed by Respondent No.1 and the Assessment Order dated 23.12.2019 vide Document No.

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ITBA/COM/M/17/2019-20/1022974447(1) passed by Respondent No.2 in levying a tax demand of Rs.10,17,150/- (Rupees Ten Lakh Seventeen Thousand One Hundred and Fifty) in the interest of justice and equity or pass such further or other Orders as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

Sworn and signed before me
this 26th day of November 2025
at Hyderabad.

T. Paranjhoth
APPELLANT

Kalyan
BEFORE ME/ADVOCATE

3. The brief facts of the case are that the assessee, an individual, not filed her return of income for the A.Y 2012-13. The case has been, subsequently reopened under section 147 of the Income Tax Act, 1961, for the reasons recorded as per which, income chargeable to tax has escaped the assessment and accordingly, notice under section 148 of the Act dated 29/03/2019 was issued and duly served on the assessee. In response to the notice under section 148 of the Act, the assessee did not file any return of income. Thereafter, notice under section 142(1) of the act was issued and there is no response from the assessee During the course of the assessment proceedings, the A.O noticed that the assessee along with 3 others sold ancestral immovable property which is an open land admeasuring 8.25 acres situated at survey No.299, Gundrampally Village of Chityala, Nalgonda District for a consideration of Rs.35,50,000/- vide

document No.3891/2011 dated 09/08/2011, whereas the market value of the property for the purpose of stamp duty was at Rs.83,49,000/-, which attracts the provisions of section 50C of the Act. Further, as per the sale deed, the assessee is having a share of 1/4th of the property, as such the assessee's share in the sale proceeds is 1/4th of the property which works out to Rs.8,87,500/-and the corresponding market value for the purpose of stamp duty is Rs.20,87,250/-. The A.O further noted that as per the inquiry conducted during the course of assessment proceedings, the cost of the open land in and around in the area of the said property prior to the year 1981 is Rs.20,000 per acre. Accordingly, considered cost of acquisition of the property at Rs.20,000 per acre and worked out the cost of acquisition of share of the property at Rs.3,23,812/-. Thus, arrived at a long-term-capital gain of Rs.17,63,438/- and completed the assessment under section 144 r.w.s. 147 of the Act on 23/12/2019 and determined the total income of the assessee at Rs.17,63,438/-.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT (A) and such appeal has been filed on 16/05/2023. During the course of appellate proceedings, the assessee has submitted the reasons for delay in filing of the appeal and claimed that, the assessment order dated 12/12/2019 was passed without the knowledge of the assessee and without providing any opportunity of being heard to the assessee. Further, the assessee came to know about the assessment order passed by the A.O only upon receipt of an e-

mail from the A.O on 25/03/2022 for communicating the order passed under section 271(1)(c) of the Act. Thereafter, the assessee took steps to collect the order from the A.O for filing appeal before the Ld. CIT (A) and in the meantime it received the assessment order on 08/05/2023 and filed appeal on 16/05/2023 and therefore, claimed that there is no delay in filing the appeal.

5. The Ld. CIT (A) after considering the relevant submissions of the assessee, for explaining the delay in filing of the appeal and also taking note of the assessment order dated 23/12/2019 observed that there is a delay of 4 years, 3 months and 23 days in filing of the appeal. The reasons given by the assessee that she was not aware of the order passed by the A.O is unsubstantiated. Since the reasons given by the assessee does not come under the reasonable cause or sufficient cause, the Ld. CIT (A) by taking into relevant facts and also by following certain judicial precedents, including the decision of Mumbai Bench of the Tribunal in the case of Prashant Projects Ltd. v. Deputy Commissioner of Income-tax - 10(3) 37 taxmann.com 137 (Mumbai - Trib.) dismissed the appeal filed by the assessee without condoning the delay in filing the appeal.

6. Further, the Ld. CIT (A) had also decided the issue involved on merit and after considering the relevant facts rejected the explanation of the assessee that the impugned property sold by the assessee and other co-owners is a joint family property and the assessment made in the case of the assessee in her individual

capacity is invalid when the property was sold by HUF. The Ld. CIT (A) discussed the issue in light of relevant facts and also the copy of the sale deed and the compromise petition filed before the Lok Adalat, Nalgonda, where the parties have settled the dispute and as per the compromise settlement, the assessee has received Rs. Rs.3,48,000/- to restrain herself from any future claims against the property. Therefore, from the above, it is very clear that the assessee has sold her share of the property and thus, the argument of the assessee that the property sold for the year under consideration is by the HUF and not by herself is devoid of any merit and cannot be accepted. Thus, the ld. CIT(A) dismissed appeal.

7. Aggrieved by the order of the Ld. CIT (A), the assessee is in appeal before the Tribunal.

8. The learned Counsel for the assessee submitted that the Ld. CIT (A) has erred in dismissing the appeal filed by the assessee without condoning the delay in filing the appeal, even though there was no delay in filing the appeal, if we consider the date of receipt of the assessment order and the date of filing the appeal before the First Appellate Authority. The learned Counsel for the assessee referring to the assessment order dated 23/12/2019 submitted that, the order passed by the A.O was not communicated to the assessee and further the assessee came to know the assessment order passed by the A.O only on 25/03/2022, when she received an email from the A.O for

communicating the order passed under section 271(1)(c) of the Act. After receiving the penalty order, the assessee took steps to collect the order from the A.O and finally able to receive the assessment order on 8/5/2023 and filed an appeal before the Ld. CIT (A) on 16/05/2023. If we consider the above date, there is no delay in filing the appeal. However, the Ld. CIT (A) by considering the date of order observed that there is a delay of 4 years 3 months and 23 days and dismissed the appeal without condoning the delay. Therefore, he submitted that the delay in filing the appeal before the Ld. CIT (A) should be condoned.

9. The learned Counsel for the assessee further submitted that on merit, the assessment order passed by the A.O in the name of the assessee, towards sale consideration received for sale of the property held by the family through HUF is invalid and liable to be quashed. The assessee has sold the property as a member of HUF and upon sale of the said property, the HUF came into existence, because there was no family partition in respect of the above property. Therefore, he submitted that the assessment made on the assessee constitute as an assessment made on the wrong person and therefore, liable to be dismissed as void ab initio. In this regard, he relied upon the decision of the Hon'ble Supreme Court in the case of Income Tax Officer v. Ch. Atchaiah (1996) 218 ITR 239 (S.C) dated 11/12/1995.

10. The Ld. Sr. AR for the revenue, on the other hand, supporting the order of the Ld. CIT (A) submitted that there is a

delay of 4 years 3 months and 23 days in filing the appeal before the Tribunal, for which the assessee could not explain any reason, much less than a sufficient reason for not filing the appeal. Although the assessee claims that she was not aware of the assessment order passed by the A.O and only she came to know after the receipt of penalty order on 25/03/2023, but the fact remains that even after receipt of penalty order on 25/03/2023, the assessee had taken more than one year time for filing the appeal before the Ld. CIT (A). From the above conduct of the assessee, it is very clear that the assessee is not serious in prosecuting her case and therefore, the reasons given by the assessee are vague in nature and does not come under sufficient cause. The Ld. CIT (A) after considering the relevant facts has rightly dismissed the appeal.

11. The Ld. Sr. DR further referring to the additions made by the A.O towards capital gain derived from sale property, submitted that the assessee along with 3 other co-owners sold a inherited ancestral property and had not disclosed the relevant capital gain by filing return of income for the year consideration. Further, even after reopening of the assessment, the assessee neither furnished any return of income nor explained the case. Therefore, the argument of the assessee that the property sold for the year under consideration is HUF property and the assessee cannot be assessed in her individual capacity is an argument to

circumvent the addition and the same cannot be accepted. The Ld. CIT (A), after considering the relevant facts, has rightly rejected the explanation of the assessee. Therefore, the order of Ld. CIT (A) should be upheld.

12. We have heard both the parties, perused the material available on record and had gone through the orders of the authorities below. We have also carefully considered the relevant reasons given by the ld. CIT(A) to dismiss the appeal in limine without condoning the delay of 4 years 3 months and 23 days. Admittedly, the assessment order has been passed under section 144 r.w.s. 147 of the Act on 23/12/2019. The assessee filed appeal before the First Appellate Authority on 16/05/2023. If we consider the date of the assessment order and the date of filing of the appeal, there is a delay of 4 years, 3 months and 23 days in filing of the appeal. The assessee claimed that the assessment order dated 23/12/2019 was passed without the knowledge and without affording an opportunity of being heard from the assessee. The assessment order has not been served on the assessee, either physically or electronically. The assessee came to know the assessment order passed by the A.O on 25/03/2022, when she had received an email with attached penalty order passed under section 271(1)(c) of the Act. Thereafter, she had taken steps to collect the order from the A.O and finally received the assessment order on 08/05/2023 and filed the appeal before the Ld. CIT (A) on 16/05/2023 and if we consider the above dates, there is no

delay in filing the appeal before the Ld. CIT (A) as claimed by the Ld. CIT (A).

13. The Ld. CIT (A) rejected the contention of the assessee on the ground that the assessee could not substantiate her argument with relevant evidence. Before us, the assessee did not file any petition for condonation of delay in filing the appeal before the Ld. CIT (A), nor explained the reasons for the delay in filing the appeal before the Ld. CIT (A). However, only when the Bench pointed out the findings of the Ld. CIT (A) on the issue of delay in filing appeal before ld. CIT(A), the learned Counsel for the assessee stated the facts narrated before the Ld. CIT (A). We have gone through relevant reasons given before the first appellate authority for explaining the delay, but in our considered view, the reasons given by the assessee for not filing appeal before the Ld. CIT (A) does not come under sufficient cause and further, it is not supported by any documentary evidence. The assessee neither proves her case with any evidences, nor gives any plausible reasons for condonation of delay of 4 years 3 months and 23 days. Since the assessee has not substantiated her claim with relevant reasons, in our considered view, the conclusion drawn by the Ld. CIT (A) on the basis of date of assessment order and date of filing appeal, that here is a delay of 4 years 3 months and 23 days in filing of the appeal before the Ld. CIT (A) should be accepted. The above delay has not been explained by the assessee, except stating

that the assessment order was passed without the knowledge of the assessee. The assessee further claimed that she came to know the assessment order passed by the A.O only on 25/03/2022, when she had received penalty order passed under section 271(1)(c) of the Act. Assuming for a moment, the assessee came to know the assessment order passed by the A.O only on 25/03/2022, but fact remains that still there is a delay of more than one year from the date she claimed to have received the assessment order or came to know about the assessment order passed by the A.O and filing of appeal before the Ld. CIT (A) on 16/05/2023. Therefore, in our considered view, the explanation offered by the assessee before the Ld. CIT (A) without any supporting evidence can be considered only a vague explanation which cannot be considered as sufficient cause for condonation of huge delay of 4 years 3 months and 23 days. Since the assessee filed the appeal without explaining the delay, in our considered view, there is no errors in the reason given by the Ld. CIT (A) to dismiss the appeal filed by the assessee without condonation of delay.

14. At this stage, it is relevant to refer to the decision of the ITAT, Mumbai Bench in the case of Prashant Projects Ltd. v. Deputy Commissioner of Income-tax, 37 Taxmann.com 137(Mumbai-Tribunal), where the Coordinate Bench of the Tribunal had considered the issue of delay and after considering the relevant case laws on this issue, held as under:

*"**2.2** We have heard the rival submissions and perused the material before us. Before proceeding further, we would like to discuss philosophy and history of law of condonation of delay along with a few cases for better understanding of the subject. Seeds of condonation of delay can be seen in Act No. XXXII of 1860.Part XII, section CIX, of the Act mentions that appellate authority, hearing the appeal against the order of Punchayat, may allow a person to file appeal even after fifteen days(period stipulated for filing appeals as per the provisions of the said Act)for 'special reasons Act No. XVI 1870, Act No. XII 1870 also had similar provisions. But section 25(2) of the Act II of 1886 clearly mentioned that there should be sufficient cause for not presenting petition within time. Discretion was given to the Presiding officer to accept the belated petition. Indian Income-tax,1922 is more or less same as the present Act. Section 30(2)of the said Act is almost identical to section 249(3)of the Act. Both the Acts allow the assessee to file appeals after expiry of specified dates, if they can show sufficient cause for not filing appeals in time. It is said that the law of limitation is enshrined in the maxim that 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. But said rules are meant to see that the parties seek their remedy promptly. Condonation of delay is the discretion of the Presiding Officers of judicial forums and is governed by section 5 of the Limitation Act, 1963.Courts are of the view that the words 'sufficient cause' of the said Act, should receive a liberal construction, so as to advance substantial justice. Once a judicial forum accepts the explanation as sufficient, it is the result of positive exercise of discretion. These provisions do not envisage that such a discretion can be exercised only if the delay is within a certain limit. The length of the delay is not the matter; acceptability of the explanation is the only criterion. Following the spirit of advancing substantial justice, Act has included discretionary powers for condoning delay in filing appeals. Section 249(3)of the Act, that allows the FAA to admit belated appeals, reads as under :*

"(3) The Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period."

2.3 a. *Now, we would like to discuss a few cases relevant for deciding the issue at hand. In the case of Office of the Chief Post Master General v. Living Media India Ltd. [2012] 207 Taxman 163/20 taxmann.com 347/348 ITR 7 (SC) appeals were filed by the Postal Department before the Hon'ble Supreme Court by way of special leave along with an applications for condoning delay of 427 days. Dismissing the appeal Hon'ble apex Court held as under :*

...Neither the Department nor the person in-charge had filed an explanation for not applying for the certified copy within the prescribed period. The other dates mentioned in the affidavit clearly showed that there was delay at every stage and there was no explanation as to why such delay had occasioned. The Department or the person concerned had not evinced diligence in prosecuting the matter to the court by taking appropriate steps. The persons concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in the Supreme Court. In the absence of plausible and acceptable explanation, the delay could not be condoned mechanically .....Though in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fide, a liberal concession had to be adopted to advance substantial justice .....Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, the Department had failed to give acceptable and cogent reasons sufficient to condone such a huge delay." (Emphasis supplied).

2.3 b. *In a recent judgment, (5th Aug.,2013) Hon'ble Supreme Court has again considered the issue of condonation of delay. In that matter the petitioner had filed a writ petition before the Delhi High Court against an order passed by the Commissioner of Customs, Kanpur. The Delhi High Court converted the writ petition into statutory appeal under the Customs Act, 1962. Department raised an objection about the territorial jurisdiction of that Court. Petitioner withdrew the appeal with liberty to approach the jurisdictional High Court. Hon'ble Delhi High Court dismissed the appeal as withdrawn with the following observations:*

"It is for jurisdictional High Court to decide the prayer for waiver/exclusion. However, it does appear that the appellant in the present case had bonafidely filed the appeal in this

Court and has been pressing the same, as the Tribunal is located in Delhi."

Appellant then filed appeal before the Hon'ble Allahabad High Court and applied for condonation of delay of 697 days. Dismissing the appeal Court observed as under:

"The appellant was assisted and had the services of the counsel's, who are expert in the central excise and customs cases. They first filed a writ petition, and then without converting it into appeal obtained an interim order. They kept on getting the matter adjourned and thereafter in spite of specific objection taken, citing the relevant case law, which is well known, took time to study the matter. Thereafter, they took more than one year and three months, to study the matter to withdraw the appeal. They took a chance, which apparently looking to the facts in Ketan v. Parekh's case and this case appear to be the practice of the counsels appearing in such matters at Delhi High Court and succeeded in getting interim orders. The Supreme Court has strongly deprecated such practice of forum shopping. In this case also there is no pleading that the writ petition and thereafter appeal was filed in Delhi High Court, under bonafide belief that it had jurisdiction to hear the appeal and that the appellant was pursuing the remedies in wrong court with due diligence. The appellant, thereafter, caused a further delay of 20 days in filing this appeal, which he has not explained. For the aforesaid reasons, we are of the opinion that the appellant is not entitled to the benefit of Section 14 of the Limitation Act. This appeal is barred by limitation by 697 days, which has not been sufficiently explained by the appellant."

Appellant challenged the order of the Hon'ble High Court before the Hon'ble Supreme Court. Not only Special leave petition, filed by the appellant, was dismissed by the Hon'ble Apex Court, but cost of Rs. 25,000/- was also imposed on the appellant Neeraj Jhanji v. CC&CE [Special Leave Appeal (Civil) No. 3648 of 2012, dated 26-7-2013].

2.3 c. *In the case of Balwant Singh (Dead.) v. Jagdish Singh [2010] 8 SCC 685, issue before the Hon'ble Apex court was condonation of delay of 778 days in bringing the legal heirs of the appellant on record. In that the applicants contended that they were not aware of the pendency of the appeal earlier and that they had come to know of it only in the month of March, 2010, where after, the application was filed on April 15, 2010. Hon'ble Court noticed contradictions*

in the stand taken to explain the delay and concluded that the applicants had acted irresponsibly and with negligence and, thus, there was an ex-facie lack of bona fide. It was held that the conduct of the legal representatives of the sole deceased evinced that they had acted with callousness. It was in that factual context, that the Hon'ble Apex court on an exhaustive survey of its earlier decisions on the issue declined to condone the delay. While emphasising that the expression 'sufficient cause', implies the presence of legal and adequate reasons to advance substantial justice, which presupposes no negligence or inaction on the part of the applicant. It was also enunciated that the word sufficient signified adequacy to answer the purpose intended. Hon'ble court further observed that the sufficient cause should be such as it would persuade the court, in the exercise of its judicial discretion, to treat the delay as an excusable one. In conclusion, Hon'ble Court reiterated that the word 'sufficient cause' should be understood and applied in a reasonable, pragmatic, practical and liberal manner and that the extent and degree of leniency to be shown by a court would depend on the nature of the application and facts and circumstances of the case (Emphasis supplied).

2.3 d. *In Indian Oil Corpn. Ltd. v. Subrata Borah Chowlek [2010] 3 GLR 312, there was delay of 59 days. Explanations furnished by the applicant revealed, that not only the applicant whiled away time at various intervening stages even after the expiry of the period of limitation, it waited for the summer vacation of the Hon'ble Supreme Court of India and the Delhi High Court to be over to have the matter attended to by their counsel.*

2.3 e. *In the case of Ajit Singh Thakur Singh v. State of Gujarat [1981] 1 SCC 495 the Hon'ble Supreme Court has explained as what constitutes sufficient cause. It was held that when a party allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstances arising before limitation expired it was not possible to file the appeal within time.*

2.4 *After considering the above referred judgments, we are of the opinion that delay can be condoned only if there is no gross negligence or deliberate inaction or lack of bona fide. Secondly, assessee should furnish acceptable and cogent reasons sufficient to condone delay. These are the pre-requisites for condoning delay. Besides the above referred*

basic principle of condonation delay certain other general principles on the subject, culled out from various case laws, can be summarised as under:

(i)	*If sufficient cause for excusing delay is shown, discretion is available to the FAAs to condone the delay and admit the appeal.*
(ii)	*The expression 'sufficient cause' is not defined, but it means a cause which is beyond the control of an assessee. For invoking the aid of the section any cause which prevents a person approaching the FAA within time is considered sufficient cause. In doing so, it is the test of reasonable man in normal circumstances which has to be applied. The test whether or not a cause is sufficient is to see whether it could have been avoided by the party by the exercise of due care and attention. In other words, whether it is bona fide cause, inasmuch as nothing shall be deemed to be done bona fide or in good faith which is not done with due care and attention. What may be sufficient cause in one case may be otherwise in another. What is of essence is whether it was an act of prudent or reasonable man.[Ashutosh Bhadra v. Jatindra Mohan Seal AIR 1954 Cal.238 and Hisaria Plastic Products v. CST AIR 1980 All. 185. Subsequent decision of a Court cannot constitute sufficient cause.*
(iii)	*In every case of delay, there is some lapse on the part of the assessee. If there are no mala fides and it is not put forth as part of a dilatory strategy, the FAA should consider the application of the assessee. But when there is reasonable ground to think that the delay was occasioned otherwise than a bona fide conduct, then the FAA should lean against acceptance of the explanation.*
(iv)	*Section 249(3)of the Act is discretionary in nature and the assessee cannot seek condonation of delay under this provision as a matter of right but has to satisfy the FAA by explaining the sufficient cause for the delay.*
(v)	*Just because there is merit in the appeal filed by the assessee, any amount of delay, however, negligently caused, cannot be condoned.*

(vi)	*Requirement of sufficient cause for delay cannot be ignored, and it becomes very important and significant when the delay is inordinate and abnormal.*
(vii)	*In the matter of J.B. Advani & Co. (P.) Ltd. v. CIT [1969] 72 ITR 395 Hon'ble Supreme Court had held that explanation of delay for the entire period is necessary. In other words what is expected of the appellant in such matters is to show that delay was occasioned due to some sufficient cause. The cause pleaded should not only be a probable one, but it should be real and sufficiently reasonable. It would not be any sort of assertion that would amount to sufficient cause and would justify the condonation of delay. The cause pleaded must fit in the facts and circumstances of the given case and the explanation offered regarding the delay occasioned by such cause should appeal to reasons so as to get judicial approval. In short in matters of delay, it is neither practicable nor desirable to explain minute-to-minute/hour-to-hour delay, but delay has to be explained.*
(viii) *(ix)* *(x)* *(xi)*	*When an application for condonation of delay is made; to consider whether a sufficient cause has been made out by the assessee; the order of the FAA should disclose that he had applied his mind to the question raised before it. Due exercise of judicial discretion is a pre-condition for allowing/refusing an application filed for condoning delay.* *The application for condonation of delay should contain substantially all the relevant material and as far as possible it should be supported by affidavit, showing that there is sufficient cause for condonation.* *If the delay is not vitiated by any error of law it should be condoned.* *Any event, cause or circumstance arising after the expiry of the limitation period cannot constitute a sufficient cause.*
(xii)	*It is said that non-filing of appeal before the FAA, before*

	the end of limitation period, creates a vested right in favour of the Revenue. As a result of not filing of an appeal by an assessee, Department, gets a legitimate and undisputed right over the tax-revenue accruing to it in pursuance of the order of the AO. This right cannot be disturbed in a light-hearted manner.
(xiii)	*In the cases of belated appeals matters have to be essentially analysed in the facts of each case-no general formula can be or should be applied, so as to ensure that an otherwise genuine cause of justice is not defeated by adherence to technical precedence.*
(xiv)	*Condonation of delay, though an equitable relief, however, cannot be accorded merely on sympathy or compassion and the grounds offered have to be evaluated to test whether the party in default had been guilty of conscious and deliberate inaction, culpable negligence and inexcusable indifference to the period of limitation mandatorily prescribed by law.*

3. If above general principals are analysed, it becomes clear that touchstone for condonation of delay is 'sufficiency/ reasonableness of the cause'. Filing of an appeal in time is a normal judicial process, whereas filing a belated appeal is an abnormal step. It is said that extraordinary remedies need existence of extraordinary circumstances. Therefore, assessee has to prove that abnormal circumstances really and factually existed in a particular case. Now, we would like to deliberate upon the issue as whether extra ordinary circumstances existed in the case under consideration.

3.1 Now we would like to discuss the cases relied upon by the Authorised Representative AR). Facts of the case of Ram Nath Sao (supra) were that after the death of some litigants, legal heirs were to be brought on record and there was delay in completing the formalities. It was submitted that the persons who had to be brought on record were 'rustic' and 'illiterate villagers' belonging to 'different families, different villages within the different police stations'. It was also submitted that delay was not intentional or they were not negligent or there was no allegation of inaction of any inaction on their part. Considering the above facts Hon'ble Supreme Court had condoned the delay. In the case under consideration it cannot be said that assessee was not

knowing the procedure of filing of appeal was illiterate. It was represented by a professional during the assessment proceedings as well as the stay proceedings. It is a corporate entity and is assisted by qualified professionals. In our opinion facts of both the cases are totally distinguishable.

In the case of Mst. Katiji (supra) delay of 4 days was condoned by the Supreme Court because important question as regards principle of valuation was involved. It was found that there was upward revision of the order of compensation by 800 % and this revision raised an important question about valuation. Therefore, Hon'ble Apex Court delayed the condonation. It was also observed by the Hon'ble Court that appellant was a government body and that the experience showed that on account of impersonal machinery and the inherited bureaucratic hurdles delay was less difficult to understand though more difficult to approve. Thus, the facts of the case of Mst. Katiji are not relevant in deciding the issue the in matter under consideration-here no important legal issue has to be decided.

Next case relied upon by the assessee is of N. Balakrishnan (supra).In that case delay was caused by misrepresentation/inaction of the Advocate. Assessee had approached the Consumer Protection Court and was awarded compensation by District Forum from the Advocate. In those circumstances Hon'ble Supreme Court held that there was sufficient cause for filing belated appeal. It was also held that the assessee was not an 'irresponsible' litigant. The Hon'ble Apex Court also found that explanation for delay was found satisfactory by the Trial Court, whereas Hon'ble High Court had reversed the finding of the Trial Court. Considering these particular circumstances, delay was condoned. We are of the opinion that there is no similarity between the case under consideration and that of N. Balkrishnan (supra).

In the case of Shankarrao (supra),the appeal was lodged in the Court of the Additional District & Sessions Judge instead of the court of District Judge. The Appeal memo was returned for presentation of the court of District Judge and on the very same date and appeal was filed. Clearly, there is no similarity between the case relied upon by the assessee and the case under consideration.

Next case relied upon by the assessee is of Bharat Auto Center (supra). In that case Hon'ble Allahabad High Court

had found that the delay was caused because of seeking of legal opinion and consultation with several counsels including the retired judges considering the peculiar facts of the case Hon'ble Court had arrived at the conclusion that delay was not caused because of negligence and allowed the appeal filed by the assessee.

In the case of Cheminor Drugs Ltd. (supra) appeal was filed before the Tribunal due to wrong advice. Considering the totality of the facts and circumstances of that case Tribunal had condoned the delay. In case of General Willium Mesonic Polly Clinic (supra) it was found that society was represented by non-professional in Income Tax matters and not by Income Tax experts, that instead of filing of appeal before the proper Forum assessee had moved a fresh application before the DIT (Exemptions), that later on some professional advice the society to prefer an appeal before the right Forum, considering these facts delay was condoned.

From the above discussion, it is clear that none of the case relied upon by the AR of the assessee is applicable to the facts of the case under consideration.

3.2 Here, we would also like to mention a few facts which are useful in deciding the appeal. We find that AO had informed the assessee, as early as 31.12.2007,to file an appeal before the CIT(A). While issuing notice of demand u/s. 156 of the Act, vide paragraph no.5,he specifically mentioned as under:

"If you intend to appeal against the assessment/fine/penalty you may present an appeal under para-1 of Chapter XX of the Income Tax Act, 1961 to the CIT(A)-10 within 30 days of the receipt of this notice...."

After that assessee applied for stay to various authorities of department. On 15.05.2008 in his letter to the Tax Recovery Officer(TRO),assessee had mentioned that it had filed an appeal with the Commissioner of Income Tax, Mumbai. He further mentioned that it strongly believed that the appeal of the Commissioner of appeal could be favourable and the tax demand would become Nil. Finally, he requested the TRO to stay recovery proceedings till the appeal was heard and determined. Assessee claims itself an ISO 9001-2000 Company. With regard to stay of demand, Assessee's C.A. had appeared before the CIT(A)-10, Mumbai as evident from the order of the Commissioner dated 12.11.2008,In his order, he held that a portion of demand would be kept in abeyance

till 31.01.2009 or the receipt of the order of the appeal from the CIT(A) which ever was earlier. On 22.03.2010 in its letter to ACIT-10 (3) in para-2,assessee mentioned that it had preferred an appeal to the CIT(A) against the order of DCIT-10(3) in respect of AY 2005-06.It was also mentioned that matter in appeal had not been taken for hearing even after lapse of 2 years and that it was sure about disallowance made by the AO to be set-aside in appeal. It was further mentioned that company would follow up the matter with the CIT(Appeals) for taking up the case for hearing at the earliest. Vide its letter dated 12.03.2011 to the ACIT-10-3, Mumbai, assessee informed that for earlier years matter was pending before the ITAT/FAA. We find that in its letter, dated 08.04.2011 to the TRO (10) (3),assessee-company had mentioned that it had been able to win case in the Hon'ble Supreme Court, that the departmental appeal against it was rejected for the earlier years in appeal by the ITAT, Mumbai. The letter also talks about pendency of appeal for AY 2005-06 in the office of the FAA and guideline issued by the CBDT also refer to in the said letter. From these letters on thing becomes clear that assessee is well aware of procedural aspect and legal provisions of the Act.

3.3 We are aware that adopting a liberal view in condoning delay is one of the guiding principles in the realm of belated appeals, but liberal approach cannot be equated with a licence to file appeals at will-disregarding the time limits fixed by the statutes. No doubt that assessees are entitled to wait until the last date of the limitation for filing of the appeal, but when they allow the limitation to expire and come forward with a explanation enumerating reasonable causes for not filing the appeal within the time prescribed under the statute, then the causes, so shown, must establish that because of some event or circumstances arising before limitation expired. Except for the inaction and negligence of the assessee, there are no other reason for filing a belated appeal. We have avoided using adjectives before the words inaction and negligence, which are generally used by the higher forums of judiciary when they find that delay is result of total lack of prudence. Timely action is the essence of day-today activities of human being - a farmer not sowing his fields in time after the rains has to suffer. Principles of nature are equally applicable to human behaviour, including the judicial system. No action was taken by the assessee for a long period to follow up his appeal.

So, if the FAA found that no satisfactory cause, not to speak of sufficient cause, has been shown by the assessee, then fault does lies with the assessee and not with him. Assessee, itself has to be blamed for the uncomfortable situation in which it finds now. For a period of more than three years, it did not bother to find out the outcome of the appeal it had filed and that also when recovery proceedings were being undertaken by the department. Bank account of the assessee were attached as per the documents available in the PB. It contacted AO, TRO and the CIT for staying demand, but no effort was made to find out the fate of the appeal. In our opinion behaviour of the assessee can be termed as personified inaction and negligence. Courts are of unanimous opinion that act of negligence and inaction do not constitute reasonable cause. We are also of the opinion that by not filing appeal in time before the FAA, assessee had allowed the State to believe that it had a vested right in its favour. Rights of the Sovereign are as important as that of the taxpayers. In matter of condonation of delay both have to show a sufficient cause which a prudent person can believe. In the case under consideration same is absent. We are aware that affidavits explaining the delay is not a pre-condition for accepting belated appeals. But affidavits throw light on the surrounding circumstances and thought process of an assessee. In the case before us, we find that no affidavit was filed before the FAA or us. We are not deciding the case against the assessee because of the said reason alone, but affidavit would have helped us to find whether or not any sufficient cause was there, if we were aware of sequences of the events and the circumstances that led to delay.

An assessee who claims that it had won the case at the level of the Hon'ble Apex Court or was successful before the ITAT, cannot be treated an ignorant assessee as the appellants of the case of Ramnath Sao (supra). Besides, the assessee was aware that the CBDT has issued instruction with regard to stay of demand. Assessee, a corporate-assessee, filing returns of income of lacs of Rupees and assisted by highly qualified professionals cannot take shadow of umbrella of ignorance of the provisions of law. It is also not the case of the assessee that it was guided by the wrong advice of the professional or it took time to consult professionals. An individual of a small place and an ISO 9001-2000-company cannot be equated, while considering the condonation of delay.

> *Therefore, considering the peculiar facts and circumstances of the case we uphold the order of the FAA and decide the effective ground of appeal against the assessee.*
>
> *As a result, appeal filed by the Assessee stands disallowed."*

14. In this view of the matter and considering the facts and circumstances of the case and also by following the decision of the ITAT Mumbai Benches, we are of the considered view that there is no error in the reasons given by the Ld. CIT (A) to dismiss the appeal filed by the assessee for delay in filing of the appeal and not explaining the delay with sufficient cause. Thus, we are inclined to uphold the findings of Ld. CIT (A).

15. Coming back to the other grounds taken by the assessee on merits. The learned Counsel for the assessee argued the issue involved in the appeal on merit in light of relevant evidences, including copy of sale deed and claimed that the assessment made in the hands of the assessee in her individual capacity is not legally tenable, because the property sold in question, was HUF and therefore, the profit arising from sale of the said property should be assessed in the hands of the HUF. In our considered view, there is no merit in the argument taken by the learned Counsel for the assessee on merits, because upon the perusal of the relevant assessment order, the appellate order including relevant copies of sale deed filed by the assessee, the assessee along with 3 other co-owners have sold the inherited property and has not disclosed any capital gain by filing the return of income for the year under consideration. When the assessment was reopened under section 147 of the Act, the

assessee neither furnished any return of income nor filed any explanation before the A.O. From the appellate proceedings, the assessee took an argument that the property sold during the year under consideration is HUF property and further although there was no document to establish creation of HUF, but the moment the property has been sold by the assessee and other family members, the HUF came into existence and capital gain, if any from the sale of the said property should be assessed in the hands of the HUF. In our considered view, the argument of the learned Counsel for the assessee is devoid of any merit going by the facts available on record, because as per the sale deed, the assessee is one of the party to the sale deed and also received consideration which is further fortified by the compromise petition filed before the Lok Adalat, at Nalgonda and settlement of the dispute with the seller, where the assessee had received further consideration of Rs.3,48,000/- to forego her right and interest in the property. From the above, it is very clear that the assessee, as one of the co-owner of the property, sold her property in her individual capacity and therefore, in our considered view, capital gain, if any, is assessable in the hands of the assessee only. The argument of the learned Counsel for the assessee that the property sold in the year is by the HUF and even if there is no documentary evidence for creation of HUF, but the moment the property was sold by the family members, the HUF came into existence is legally not tenable in law, because the assessee neither furnished any evidence for creation of HUF nor explained as to how the HUF

came into existence after the sale of the property. Since the facts brought on record clearly show that the assessee is one of the co-owner and also received consideration, in our considered view, the A.O has rightly assessed the capital gain derived from the sale of property in the hands of the assessee. The Ld. CIT (A) after considering the relevant facts has rightly upheld the addition made by the A.O. Therefore, on this count also, there is no merit in the argument of the assessee and thus, the same is dismissed,

16. In the result appeal filed by the assessee in ITA No.2050/ Hyd/2025 is dismissed.

ITA No.2079/Hyd/2025

17. The brief facts of the case are that the assessee has not filed her return of income for the A.Y 2012-13. The case of the assessee was reopened under section 147 of the I.T. Act, 1961 and the assessment has been completed under section 144 r.w.s. 147 of the Act and determined the total income at Rs.17,63,438/- by making addition towards Long Term Capital Gain realized from transfer of property. Thereafter, the penalty proceedings under section 271(1)(c) of the Act were initiated for concealment of income and notice under section 274 and 271(1)(c) of the Act dated 23/12/2019 was issued and served on the assessee. Subsequently, hearing opportunities were also given to the assessee through show cause notice issued under section 271(1)(c) of the Act on 19/07/2021, 23/07/2021 and the assessee has not responded to the said notices. Therefore, the A.O by

taking note of the relevant facts and also taking into account addition made towards capital gains levied penalty under section 271(1)(c) of the Act for Rs.2,63,269/- which is 100% of tax sought to be evaded.

18. Aggrieved by the penalty order, the assessee preferred an appeal before the Ld. CIT (A) and challenged the penalty levied by the A.O. The Ld. CIT (A) after considering the relevant submissions of the assessee upheld the action of the A.O and dismissed the appeal filed by the assessee.

19. Aggrieved by the order of the Ld. CIT (A), the assessee is in appeal before the Tribunal.

20. We have heard both parties, perused the material available on record and had gone through the orders of the authorities below. Admittedly, the assessee has not filed any return of income for the A.Y 2012-13 on or before the due date provided under section 139(1) of the Act. It is also an admitted fact that the assessee has not filed any return of income in response to notice under section 148 of the Act. The A.O passed the assessment order under section 144 r.w.s. 147 of the Act and determined the total income at Rs. 17,63,438/- and made addition towards the Long-Term Capital Gain derived from transfer of property which was not disclosed in the regular return of income filed by the assessee. From the above, it is very clear that it is a clear case of concealment of particulars of income in terms of section 271(1)(c) of the Act, towards addition made for Long-Term

Capital Gain derived from the property. The A.O after considering the relevant facts has rightly levied the penalty of Rs.3,66,269/- under section 271(1)(c) of the Act. The Ld. CIT (A) after considering the relevant facts rightly upheld penalty levied by the A.O. Before us, the assessee could not offer any explanation for concealment of particulars of income in respect of Long-Term Capital Gain derived from the transfer of property, except stating that the income assessed by the A.O is not assessable in the hands of the assessee. Therefore, we find no error on the order of the A.O to levy penalty under section 271(1)(c) of the Act. Thus, we are inclined to uphold the order Ld. CIT (A) and dismiss the appeal filed by the assessee.

21. In the result, appeal filed by the assessee in ITA No.2079/Hyd/2025 is dismissed.

22. To sum up, both the appeals filed by the assessee are dismissed.

Order pronounced in the Open Court on 25th February 2026.

Sd/-	Sd/-
(VIJAY PAL RAO) **VICE PRESIDENT**	**(MANJUNATHA, G.)** **ACCOUNTANT MEMBER**

Hyderabad, dated 25th February 2026.

VBP/sps

Copy to:

S.No	Addresses
1	Smt. Paran Jyothi Thota, 5-9-633/A Gun Foundry Hyderabad 500001
2	Asstt. CIT, Circle 5(1), Hyderabad
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order

VADREVU PRASADA RAO

Digitally signed by VADREVU PRASADA RAO
Date: 2026.02.26 10:47:48 +05'30'