आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री एस.एस. विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री एस.आर. रगुनाथा, लेखा सदस्य के समक्ष
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri S.R. Raghunatha, Accountant Member

आयकर अपील सं./**I.T.A. Nos.3113 & 3114/Chny/2025**
निर्धारण वर्ष/Assessment Year: 2017-18 & 2018-19

G2K Trust, No. 5, Abila Avenue, Santosh Garden, Kulumani Main Road, Woraiyur, Trichy 620 102. **[PAN: AACTG4763G]**	Vs.	The Income Tax Officer, Ward 2(1), Tiruchirappalli.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by	:	Ms. K. Abhirame, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Ms. T. Mythili, JCIT
सुनवाई की तारीख/ Date of hearing	:	02.02.2026
घोषणा की तारीख /Date of Pronouncement	:	24.02.2026

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

Both the appeals filed by the assessee are directed against separate orders dated 04.07.2025 and 15.07.2025 passed by the Addl/JCIT(A), Panaji for the assessment years 2017-18 and 2018-19 respectively.

2. We find that the appeal is filed with a delay of 34 days. The assessee filed an affidavit for condonation of delay stating the reasons. Upon hearing both the parties and on examination of the said affidavit, we

find the reasons stated by the assessee are bonafide, which really prevented in filing the appeal in time. Thus, the delay is condoned and admits the appeal for adjudication.

3. Since, the facts are identical and issues are common, for the sake of convenience both the appeals were heard together and are being disposed off, by this consolidated order.

4. First, we shall take up ITA No. 3113/Chny/2025 – AY 2017-18 for adjudication.

5. The assessee raised 11 grounds of appeal amongst which, the only issue emanates for our consideration as to whether the ld. CIT(A) is justified in not condoning the delay of 2235 days in filing the appeal and adjudicate the issue on merits.

6. We note that, at the outset, the CPC Bengaluru passed intimation under section 143(1) of the Income Tax Act, 1961 [“Act” in short] dated 24.03.2019. But, however, the assessee filed an appeal before the first appellate authority with a delay of 2235 days. Not satisfying with the explanation offered by the assessee, the first appellate authority dismissed the appeal by observing that the assessee has not filed any cogent documentary evidence.

7. The ld. Ms. K. Abhirame, Advocate submits that the ld. CIT(A) primarily rejected the delay condonation petition for non-submission of any cogent documentary evidences such as death certificate of the auditor, etc. and drew our attention to pages 2 & 3 of the impugned order. She submits that the assessee filed auditor's enrolment certificate, medical certificate issued to the assessee's auditor, registered trust deed of the assessee, G2K Pan card, death certificate of assessee's auditor, registered trust amendment deed of the assessee in the form of petition for admission of additional evidence, argued that the delay of 2235 days in filing the appeal before the ld. CIT(A) may be condoned and direct the ld. CIT(A) to adjudicate the issue on merits. She drew our attention the order of this Tribunal the case of The Centre for Management Development v. ACIT(E) reported in 2025 SCC Online ITAT 5136 at page no:1 of paper book and submits that the Coordinate Bench of Cochin ITAT condoned the delay of 338 days on the satisfaction of the reason behind the delay was due to the death of the auditor. She argued that if this Tribunal satisfies that there is sufficient cause in explaining the delay with reference to the death of an auditor, the length of delay becomes immaterial. Further, she referred to the decision of the Hon'ble High Court of Karnataka in the case of Kolapudi Enoch Washington v. Addl. CIT (GST & Central Tax) reported in [2022] 145 taxmann.com 268

(Karnataka) and submits this Tribunal may adopt justice oriented approach in condoning the delay of 2235 days.

8. The ld. AR referred to the order of the Tribunal in the case of ITO v. Gayatri Coal Supply Co reported in (1999) 238 ITR (AT) 16: 1997 SCC Online ITAT 12 at page 7 of the paper book and argued that the death of the auditor constitute reasonable cause. Further, she referred to the decision of the Hon'ble High Court of Bombay in the case of Al Jamia Mohammediyah Education Society v. CIT(E) [2025] 482 ITR 41 and argued that exemption should not be denied merely on the bar of limitation especially when the Legislature has conferred wide discretionary powers to condone such delay.

9. Further, she drew our attention to the decision of the Hon'ble Supreme Court in the case of Pathapati Subba Reddy (died) by Legal Representatives and Others v. Special Deputy Collector (LA) reported in (2024) 12 SCC 336 and argued that it is necessary in the interest of justice with the cause of substantial justice should be allowed to prevail upon the technical consideration and if the delay is not deliberate, it ought to be condoned.

10. The ld. DR Ms. T. Mythili, JCIT, vehemently opposed the submissions of the ld. AR and submits that against the intimation passed under section 143(1) of the Act dated 24.03.2019, the assessee is required to file an appeal before the first appellate authority on or before 23.03.2019, whereas, the assessee filed the appeal on 03.06.2025 with an inordinate delay of 2235 days. She drew our attention to the death certificate of the assessee's auditor dated 20.09.2018 placed at page 12 of the petition for admission of additional evidence and submits that the assessee's auditor expired much before the intimation order passed by the CPC under section 143(1) of the Act dated 24.03.2019 i.e., after six months period of the death of the assessee's auditor, the intimation order has been passed. She submits that the death of assessee's auditor has no repercussion over the assessee as the assessee could easily find an auditor within the period of six months. She vehemently argued that the mere reason of assessee's auditor, who expired six month before cannot be a valid or reasonable cause for the delay of 2235 days in filing the appeal and prayed that the reasons stated by the assessee should be rejected and dismiss the appeal filed by the assessee.

11. Heard both the parties and perused the material available on record. We note that admittedly there is a delay of 2235 days in filing the

appeal before the first appellate authority after the intimation order passed under section 143(1) of the Act dated 24.03.2019. We have perused the death certificate of assessee's auditor and note that the assessee's auditor expired on 20.09.2018 and the CPC, Bengaluru passed the intimation order under section 143(1) of the Act dated 24.03.2019, which is very much clear that the CPC, Bengaluru passed intimation after the death of the auditor, admittedly there is a gap of approximately six months between the death of the auditor and intimation u/section 143(1) of the Act. We find no explanation as to whether what steps taken by the assessee in pursuing the any matters before the authorities, therefore, in our opinion, there was no link between the death of the auditor and filing of appeal of before the first appellate authority. Further, we note that it is the duty of the assessee look after for suitable alternative to manage the day to day affairs of its functions, thus, the assessee failed to show sufficient cause which really prevented the appeal to be filed in time. Therefore, the arguments of the ld. AR are not reasonable, not acceptable.

12. Now let us examine the case laws as relied on by the the ld. AR, in the case of the Centre for Management Development v. ACIT(E) (supra), the Cochin Bench of the ITAT observed and held as under:

4. After considering the rival submissions, we observe that the assessee is an educational institution set up in 1979 and fully founded by the Government of Kerala, in a way the assessee is self-supporting autonomous institution. There was a delay of 338 days before the CIT(A) for which the assessee had duly filed an application for condonation of delay explaining the reasons behind the delay, i.e., the death of the auditor who was handling the matters of the assessee.

5. We are of the view that the reasons advanced before the CIT(A) would constitute a sufficient cause and hence the CIT(A) ought to have condoned the delay of 338 days considering the peculiar facts and circumstances of the case. Therefore, we hereby restore this matter to the file of the CIT(A) after condoning the delay of 338 days happened before him and direct him to decide the appeal on merits. Needless to say, the CIT(A) shall give meaningful opportunity of being heard to the assessee, before passing any order.

13. on perusal of the above, we note that the Cochin Benches held that the death of an auditor would constitute a sufficient cause with reference to delay of 338 days and we find no complete facts are emanating from the said order, in the present case, there is a gap of approximately six months between the death of the auditor and intimation u/section 143(1) of the Act, therefore, the delay of 2235 days, in our opinion, the facts and circumstances are not similar, thus, order of Cochin Tribunal is not applicable.

14. Further, as relied on by the Ld.AR, In the case of Kolapudi Enoch Washington v. Addl. CIT (GST & Central Tax) (supra), the Hon'ble High Court of Karnataka has held as under:

5. As rightly contended by the learned counsel for the petitioner, though the 1st respondent – appellate authority does not have any power to condone the delay in preferring an appeal under Section 107 of the CGST Act, in a given case, it is open for this Court to condone the delay by exercising its powers under Article 226 of the Constitution of India. In the

instant case, it is the specific assertion of the petitioner that due to untimely demise of his Auditor and on account of bonafide reasons, unavoidable circumstances and sufficient cause, it was not possible for him to not only file the GST returns and make payment within the stipulated time but also could not prefer the appeal within the prescribed period. In my considered opinion, the explanation offered by the petitioner in not making GST payment, filing returns and preferring an appeal deserves to be accepted and by adopting a justice oriented approach, I deem it just and appropriate to set aside the impugned orders and direct the 2nd respondent to restore the GST registration of the petitioner, subject to payment of all dues by the petitioner.

15. On careful reading of the above decision, the Hon'ble High Court of Karnataka was pleased to exercise its powers under Article 226 of the Constitution of India in condoning the delay with reference to untimely demise of Auditor, as we held in the aforementioned paras that there was no link between the death of the auditor and filing of appeal of before the first appellate authority as there was gap of approximately six months between the death of the auditor and intimation u/section 143(1) of the Act, therefore, the facts and circumstances are not similar, thus, decision of , the Hon'ble High Court of Karnataka is not applicable.

16. Now, let us see another order in the case of ITO v. Gayatri Coal Supply Co. (supra), the findings are reproduced herein below:

On the other hand, learned counsel for the assessee reiterated the submissions made before the Commissioner of Income-tax (Appeals) and emphasized that it was not easy to change the auditor and, therefore, he was retained. Ultimately, he died in 1990-1991. Further, the main partner, Shri Mahesh Chandra, had died on November 16, 1984, and the troubles of the company had started during his illness and after his death.

In the result, I entirely agree with the learned Accountant Member that this is a case where the penalties should be deleted. In answer to the point of reference, I hold that the assessee has proved under section 271B existence of reasonable cause for failure to get the accounts audited for the two years under appeal, and, therefore, the assessee is not liable for penalties for both the years, i.e., assessment years 1987-1988 and 1988-1989 under section 271B of the Act.

17. We find the facts and circumstances in the above case pertains to penalty for not getting the accounts audited and the THIRD MEMBER agreed with the ld. Accountant Member in cancelling the penalties by proving existence of reasonable cause under section 271B of the Act, therefore, the facts and circumstances are not similar, thus, the order of the THIRD MEMBER Case of Patna Bench of ITAT, is not applicable.

18. In the case of Al Jamia Mohammediyah Education Society v. CIT(E) reported in (2025) 482 ITR 41, the Hon'ble High Court of Bombay has observed, as reproduced, herein below:

2. The petitioner, a charitable trust, which is registered under the Bombay Public Trusts Act, 1950 filed its return of income ("ROI") for the assessment year ("AY") 2016-2017 on September 6, 2016 declaring the income at "nil" and claiming a refund of Rs. 70,710. The petitioner's accounts were audited and the audit report for the assessment year 2016-2017 was also filed. Along with the return of income, the petitioner had to file form 10B, which the petitioner did not file. It was filed only on February 15, 2020, with a delay of about 1,257 days.

6. Admittedly, Petitioner is a charitable trust. Admittedly, Petitioner has been filing its returns and Form 10B for AY 2015-16, for AY 2017-18 to AY 2021-22 within the due dates. On this ground alone, in our view, delay condonation application should have been allowed because the failure to file returns for AY 2016-17 could be only due to human error. Even in the impugned

order, there is no allegation of malafide. As held by the Gujarat High Court in Sarvodaya Charitable Trust v. Income Tax Officer (Exemption) [(2021) 125 taxmann.com 75 (Guj)], the approach in the cases of the present type should be equitious, balancing and judicious. Technically, strictly and liberally speaking, Respondent No.1 might be justified in denying the exemption by rejecting such condonation application, but an assessee, a public charitable trust with almost over thirty years, which otherwise satisfies the condition for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned. Paragraphs 30 and 31 of Sarvodaya Charitable Trust (Supra) reads as under:

> *"30. We may also refer to and rely upon a decision of the Delhi High Court in the case of G.V. Infosutions (P) Ltd. v. Dy: CIT [2019] 102 taxmann.com 397/261 Taxman 482. We may quote the relevant observations thus (page 170 of 13 ITR – OL):*
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> > *"8. The rejection of the petitioner's application under section 119(2)(b) is only on the ground that according to the Chief Commissioner's opinion the plea of omission by the auditor was not substantiated. This court has difficulty to understand what more plea or proof any assessee could have brought on record, to substantiate the inadvertence of its advisor. The net result of the impugned order is in effect that the petitioner's claim of inadvertent mistake is sought to be characterised as not bona fide. The court is of the opinion that an assessee has to take leave of its senses if it deliberately wishes to forego a substantial amount as the assessee is ascribed to have in the circumstances of this case. "Bona fide" is to be understood in the context of the circumstance of any case. Beyond a plea of the sort the petitioner raises (concededly belatedly), there can not necessarily be independent proof or material to establish that the auditor in fact acted without diligence. The petitioner did not urge any other grounds such as illness of someone etc., which could reasonably have been substantiated by independent material. In the circumstances of the case, the petitioner, in our opinion, was able to show bona fide reasons why the refund claim could not be made in time.*
> >
> > *9. The statute or period of limitation prescribed in provisions of law meant to attach finality, and in that sense are statutes of repose; however, wherever the legislature intends relief against hardship in cases where such statutes lead to hardships, the concerned authorities-including Revenue Authorities have to construe them in a reasonable manner. That was the effect and purport of this court's decision in Indglonal Investment & Finance Ltd. (supra). This court is of the opinion that a similar approach is to be adopted in the circumstances of the case."*

> *31. Having given our due consideration to all the relevant aspects of the matter, we are of the view that the approach in the cases of the present type should be equitious, balancing and judicious. Technically, strictly and liberally speaking, the respondent no. 2 might be justified in denying the exemption under section 12 of the Act by rejecting such condonation application, but an assessee, a public charitable trust past 30 years who substantially satisfies the condition for availing such exemption, should not be denied the same merely on the bar of limitation especially when the legislature has conferred wide discretionary powers to condone such delay on the authorities concerned."*

> *7. Moreover, in our opinion, Petitioner does not appear to have been lethargic or lacking in bonafides in making the claim beyond the period of limitation which should have a relevance to the desirability and expedience for exercising such power. We are conscious that such routine exercise of powers would neither be expedient nor desirable, since the entire machinery of tax calculation, processing of assessment and further recoveries or refunds, would get thrown out of gear, if such powers are routinely exercised without considering its desirability and expedience to do so to avoid genuine hardship.*

19. On careful reading of the above decision, we find that the accounts of the petitioner therein were audited and the audit report was also filed along with the return of income, but no form 10B was filed along with the return of income and audit report, it was filed only on 15-02-2020, with a delay of about 1,257 days. The Hon'ble High Court of Bombay was pleased to hold that the petitioner therein has been filing its returns and Form 10B for AY 2015-16, for AY 2017-18 to AY 2021-22 within the due dates and the delay condonation application should have been allowed because of the failure to file returns for AY 2016-17 could be only due to human error. As we discussed above in the above mentioned paras, the facts of the present case are that an appeal was not filed within time as

prescribed by statute and the facts before the Hon'ble High Court of Bombay are that returns of income were filed but not uploaded Form 10B along with the return of income, therefore, in our opinion, the facts and circumstances are not similar, thus, the decision of the Hon'ble High Court of Bombay is not applicable.

20. In the case of Pathapati Subba Reddy (died) by Legal Representatives and Others v. Special Deputy Collector (LA) (supra), at para 18 of the order, the Hon'ble Supreme Court observed as under:

> *18. In Collector (LA) v. Katiji, this Court in advocating the liberal approach in condoning the delay for "sufficient cause" held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal, and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of "sufficient cause" for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases "liberal approach", "justice-oriented approach" and cause for the advancement of "substantial justice" cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead ma*

21. On careful reading of the above, we find that in the above decision in the case of Pathapati Subba Reddy (died) by Legal Representatives and Others v. Special Deputy Collector (LA), the Claimants died during the pendency of the reference before the Court of Additional Senior Civil Judge, Gudur and thereafter, after the lapse of more than 5/6 years, an

appeal was filed before Hon'ble High Court and carried before the Hon'ble Supreme Court. But, however, the facts are entirely different in the present case, whereas, assessee's auditor expired on 20.09.2018 and after six months, the CPC Bengaluru passed the intimation order under section 143(1) of the Act on 24.03.2019. Further, we find that the Ld AR filed petition for admission of additional evidence stating that the said documents were not filed before the CIT-A. On perusal of the page 2 of the impugned order, we note that CIT-A mentioned about non filing of cogent evidence like, death certificate of the auditor, medical records substantiating prolonged illness, proof of threats from the landlord, affidavit or evidence of auditor's son's inability to assume charge and any correspondence showing steps taken to safeguard tax compliances supporting the reasons, but in the petition, we find only death certificate of the auditor and the certificate issued to the assessee's auditor, hence, the case law relied on by the ld. AR In the case of Pathapati Subba Reddy (died) by Legal Representatives and Others v. Special Deputy Collector (LA) (supra), is not applicable.

22. We find time and again, the Hon'ble Supreme Court has reminded that the concept of "liberal approach", "justice oriented approach", "substantial justice" should not be employed to frustrate or jettison the substantial law of limitation. Further, reasons must satisfy the authorities

that the assessee was prevented by any sufficient cause, unless a satisfactory explanation is furnished, the authorities should not allow the petition for condonation of delay, in case the petition for condonation is allowed in condoning the delay without any justification, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to legislature. Having keeping in mind, we find in the present case, the length of delay is definitely a relevant matter that this Tribunal must take into consideration while considering the reasons explained before the ld. CIT(A) as well as argued by the ld. AR before us. It is an established principle where an appeal presented with abnormal delay, beyond limitation, the assessee has to explain as to what is the reasonable cause, which really prevented the assessee to approach the first appellate authority within the time. As we discussed above, since the assessee failed to give sufficient cause for not filing the appeal in time, we hold that the assessee's reasons for the inordinate delay cannot be interpreted liberally, therefore, due to lack of *bonafide*, we find no infirmity in the order passed by the first appellate authority and it is justified. Thus, ground Nos. A to E raised by the assessee are dismissed.

23. In view of our decision in confirming the impugned order, other grounds raised in Form 36 become academic and accordingly dismissed

as infructuous. Thus, all the grounds raised by the assessee are dismissed.

I.T.A. No. 3114/Chny/2025 – AY: 2018-19

24. We find that the appeal is filed with a delay of 34 days. The assessee filed an affidavit for condonation of delay stating the reasons. Upon hearing both the parties and on an examination of the said affidavit, we find the reasons stated by the assessee are bonafide, which really prevented the assessee in filing the appeal in time. Thus, the delay is condoned and admit the appeal for adjudication.

25. The assessee raised 10 grounds of appeal amongst which, the only issue emanates for our consideration as to whether the ld. CIT(A) is justified in not condoning the delay of 2175 days in filing the appeal and adjudicate the issue on merits. The grounds raised and the facts are similar and based on same identical facts with that of appeal in ITA No. 3113/Chny/2025 for AY 2017-18 except variation in delay of 60 days, wherein, we have confirmed the order of the first appellate authority in not the condoning the delay of 2235 days in the aforementioned paras, therefore, same view would also be equally applicable in the present case for AY 2018-19. Thus, we find no infirmity in the order of CIT-A in

not condoning of delay of 2175 days. Accordingly, it is justified and the grounds raised by the assessee are dismissed.

26. In the result, both the appeals filed by the assessee are dismissed.

Order pronounced on 24th February, 2026 at Chennai.

Sd/-	Sd/-
(S.R. RAGHUNATHA)	(S.S. VISWANETHRA RAVI)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

Chennai, Dated, 24.02.2026

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2.प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.