

आयकर अपीलीय अधिकरण, कोलकाता पीठ, कोलकाता

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

**Before Shri Rajesh Kumar, Accountant Member and
Shri Pradip Kumar Choubey, Judicial Member**

**ITA No.1021/Kol/2025
Assessment Year: 2022-23**

**Calcutta New School Society.....Appellant
7/1B, Monoharpukur Road,
Kol-26..
[PAN: AAAAC2420R]**

vs.

ITO, Ward-1(1), Kolkata.....Respondent

Appearances by:

Shri Anil Kochar & Aryan Kochar, Advocate, appeared on behalf of the appellant.
Shri Sanjib Kr. Paul, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 20, 2026

Date of pronouncing the order : February 10, 2026

ORDER

Per Pradip Kumar Choubey, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 13.03.2025 of the Commissioner of Income Tax (Appeal), ADDL/JCIT(A) -1, Delhi [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. Brief facts of the case of the assessee are that the assessee is a charitable trust registered u/s 80G of the Act and filed its return of income declaring total income of Rs.4,72,606 and discharging its tax liability of Rs.47,757. At the time of filing the return in Form ITR-7, the assessee reported an application of income amounting to Rs. 13,567,642 and an accumulation of Rs.10,41,069, however, the return was not accepted and subsequently processed by CPC thereby adding Rs.1,46,08,711 to the total income. Consequently, a demand of Rs.60,13,740, including interest, was raised. The assessee sought rectification u/s 154, but the same was denied.

3. Aggrieved by the said intimation order, the assessee preferred appeal before the ld. CIT(A) but failed to succeed as the appeal of the assessee was dismissed by the ld. CIT(A) as barred by limitation of 190 days in filing the appeal.

4. Being aggrieved and dissatisfied, the assessee is in appeal before us. The ld. AR challenges the impugned order of the ld. CIT(A) thereby submitting that there was a delay of 190 days in filing the appeal before the ld. CIT(A) and the reason for the delay was explained in Form 35 which was beyond the control of the assessee. The ld. AR prays that the matter may be remitted back to the file of the ld. CIT(A) upon direction to pass a fresh order after condoning the said delay.

5. The ld. DR supports the impugned order but did not raise any objection for remitting the appeal of the assessee before the ld. CIT(A).

6. Upon hearing the submissions of the counsels of the respective parties, we have gone through impugned order passed by the ld. CIT(A) and find that the ld. CIT(A) dismissed the appeal of the assessee solely on the ground of delay of 190 days without dealing the appeal on merit. We find that in Form 35, the assessee mentioned that a rectification request u/s 154 was filed, since the same was not accepted, the appeal against the original order could not be filed in time. We note that assessee-society is a charitable trust registered u/s 80G of the Act and carrying out charitable activities and the reason for the said delay was beyond the control of the assessee.

7. In this context, we have perused the several decisions of the Hon'ble Apex Court and find that in *Shakuntala Devi Jain v. Kuntal Kumari* [AIR 1969 SC 575], this Court reiterated the following classic statement from *Krishna vs. Chathappan* [1890 ILR 13 Mad 269]:

"... Section 5 gives the courts a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words `sufficient cause' receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fides is imputable to the appellant."

In *N.Balakrishnan v. M.Krishnamurthy* [1998 (7) SCC 123], this Court held:

"It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court."

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice..... Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly.

A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice."

8. Keeping in view the order of the ld. CIT(A) and considering the facts and circumstances of the case, we are inclined to restore the appeal of the assessee to the file of the ld. CIT(A) for fresh consideration after affording opportunity to the assessee of hearing and the ld. CIT(A) will pass a reasoned order in accordance with law. The assessee is directed to fully cooperate in the remand proceedings.

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

Kolkata, the 10th February, 2026.

Sd/-
[Rajesh Kumar]
Accountant Member

Sd/-
[Pradip Kumar Choubey]
Judicial Member

Dated: 10.02.2026.

RS

Copy of the order forwarded to:

1. Appellant -
2. Respondent -
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches