

IN THE INCOME TAX APPELLATE TRIBUNAL, CUTTACK BENCH CUTTACK

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

ITA No.132 /CTK/2026
(Assessment Year: 2016-17)

Charan Behera, At-Kantamunduli, Sisua, Astaranga, Puri	Vs.	Income Tax Officer, Ward, Angul
PAN No.AHTPBA 6079 J		
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri P.K.Mishra, A.R.
Department represented by	Shri Sanjib Banerjee, Sr.DR
Date of hearing	25/02/2026
Date of pronouncement	25/02/2026

ORDER

PER: BENCH

1. This is an appeal filed by the assessee against the order of the Id. CIT(A), NFAC, Delhi in Appeal No.NFAC/2015-16/10545534 dated 31/01/2026 for the A.Y. 2016-17, in the matter of assessment u/s.147 r.w.s 144 of the Act.
2. Shri P.K.Mishra, Id. A.R. appeared on behalf of the assessee and Shri Sanjib Banerjee, Id. Sr.DR represented on behalf of the revenue.
3. It was submitted by the Id. AR that the assessee is a retired Principal in Kaniha Degree College, Kaniha. It was the submission that the assessment order of the Assessing Officer was an exparte assessment passed u/s.147 r.w.s 144 r.w.s 144B of the Act. It was submitted by Id AR that the Id CIT(A) has dismissed the appeal in limine on account of delay of 667 days in filing the appeal on the ground that the assessee has neither filed any

separate affidavit nor produced any supporting documents to substantiate the claim regarding the date of service or to explain the cause of delay. It was prayed that the delay in filing the appeal before the Id CIT(A) be condoned and the matter be restored to the file of the Assessing Officer for fresh adjudication.

4. In reply, Id Sr DR submitted that the Id CIT(A) is justified in dismissing the appeal on account of delay as no proper petition was filed for condoning the delay.
5. We have considered the rival submissions and perused the relevant material available on record. It was the claim that the assessee has already been retired from the service on 31.1.2018 and no assessment order has been received. Only when the assessee came to know about the demand from the bank authority about his account attachment, he has filed the appeal before the Id CIT(A). By not filing the appeal, the assessee would not get any benefit or advantage, rather he will suffer financially. In this regard, we may make reference to the following observations of the Hon'ble Supreme court from the decision in the case of Collector Land Acquisition Vs. Mst. Katiji & Others, 1987 AIR 1353, wherein, it has been held as under:

“ 1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

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 nondeliberate 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.

6. Considering the facts of the case, we condone the delay of 667 days in filing the appeal before the CIT(Appeals). As the order of the Id AO was an exparte assessment, we restore the matter to the file of the Jurisdictional Assessing Officer for fresh adjudication after allowing adequate opportunity of hearing to the assessee.

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

Order dictated and pronounced in the open court on 25/02/2026.

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Sd/-
(GEORGE MATHAN)
JUDICIAL MEMBER

Cuttack, Dated: 25/02/2026

**Ranjan, Sr. PS*

Copy to:

1. Assessee – Charan Behera, Puri
2. Revenue- Income Tax officer, Angul
3. CIT(A), NFAC, Delhi
4. CIT
5. DR
6. Guard File

By Order

Assistant Registrar, ITAT, Cuttack