

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No. 2561/Ahd/2025
(Assessment Year: 2016-17)

Sinhuj Dudh Utpadak Sah Man Ltd., Sinhuj, Sinhuj Bazar, Sinhuj S.O. Aklecha, Kheda-387430	Vs.	Income Tax Officer, Ward-1, Nadiad
[PAN No. AACAS0999M]		
(Appellant)	..	(Respondent)

Appellant by	:	Shri Jimi Patel, AR
Respondent by	:	Smt. Urvashi Mandhan, Sr. DR
Date of Hearing		24.02.2026
Date of Pronouncement		26.02.2026

ORDER

PER: ANNAPURNA GUPTA - AM:

The present appeal has been filed by the Assessee against the order of the Ld. Commissioner of Income Tax (Appeals), (hereinafter referred to as “CIT(A)”) National Faceless Appeal Centre (in short “NFAC”), Delhi dated 29.01.2025 passed under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as the “Act”) and relates to Assessment Year (A.Y.) 2016-17.

2. The Grounds of Appeal raised by the Assessee are as under:

“1. Ld. CIT(A) erred in law and facts in not condoning delay of 417 days in filing an appeal without appreciating facts and law of the case properly.

2. Ld. CIT(A) erred in law and facts in confirming addition of Rs.56,33,047/- u/s 69A r.w.s. 115BBE of the Act being alleged unexplained cash deposit without appreciating facts and law of the case properly.

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3. *The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.”*

3. At the outset, itself Ld. Counsel for the assessee stated that the Ld. CIT(A) had dismissed the assessee’s appeal as non-maintainable not condoning the delay of 417 days in the filing of appeal before it. He contended however that the Ld. CIT(A) had dealt with the issue on merits also. Ld. Counsel for the assessee contended that the assessee had adduced sufficient cause for the delay in the filing of the appeal on account of the management of the assessee society changing every year and the new management being unaware of the passing of the assessment order. He stated that it was only when the Secretary who was appointed after the passing of assessment order became aware of the same that the assessee took remedial action and filed appeal against the same with a delay of 1 year and 2 months. He drew our attention to the submissions made in this regard reproduced at Page 2 of the CIT(A) order:

“Assesses is a Co-operative society and managed by Secretary and Chairman. Most of the members are illiterate and agriculturist. Moreover, there is election system to elect Secretary and Chairman every year. Every year Secretary and Chairman are changed. Hence, the New Secretary did not know about tax filing procedure done by old Secretary. Moreover, Government draw the attention of new Secretary for assessment orders. Then After new Secretary immediately approach and prepared to file appeal. That is the reason why there is delay in filing of appeal of more that around One year and two months. So, we request your good self kindly Condone the delay and admit the delay.”

4. He further contended before us that the assessee was a co-operative society of illiterate farmers who were unaware about the tax filing procedures. That on account of the non-condonation of delay, addition to the tune of Rs.56,33,085/- made by the AO to the income of the assessee on account of alleged unexplained cash deposited in its bank account, stood confirmed

while the fact was that the cash deposited related to the business carried out collectively by the farmers for their benefit which was eligible for deduction under Section 80P of the Act. That even if not entitled to deduction under Section 80P of the Act, it was only the profit element embedded in the receipt of the assessee, that was liable to tax. He contended that on account of non-condonation of the delay grave prejudice had been caused to the assessee resulting in its entire receipts being subjected to tax that too without being heard and being a small assessee this would cause immeasurable damage to the cooperative of small farmers.

5. The Ld. DR, however, supported the order of the Ld. CIT(A).

6. We have considered the contention of the Ld. Counsel for the assessee and we find merit in the same. The assessee has adduced sufficient cause for the delay being on account of lack of knowledge of tax procedures of its members and managing committee comprising of illiterate farmers. That the delay was deliberate and conscious is not the case of the Ld.CIT(A). Moreover, the assessee has also fairly demonstrated before us that grave prejudice that would be caused to the assessee on account of addition made to its income of Rs. 56,33,085/- being confirmed without hearing the assessee at all. The said amount representing cash deposits in its bank account, it would be highly unfair to tax the same entirely without even hearing the assessee. The punishment in the shape of tax liability is, we find, disproportionate to the negligence of the assessee, which is a cooperative of illiterate farmers, in not challenging the assessment order in time.

7. It is settled law that in matters relating to condonation of delay, justice oriented approach should be adopted and where substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred. 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:

"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 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."

8. Similarly, we would like to make reference to authoritative pronouncement of Hon'ble Supreme Court in the case of N. Balakrishnan Vs. M. Krishnamurthy (supra). It reads as under:

"Rule of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy.

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Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be putt to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

A court knows that refusal to condone delay would result 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 vide Shakuntala Devi lain Vs. Kuntal Kumari [AIR 1969 SC 575] and State of West Bengal Vs. The Administrator, Howrah Municipality [AIR 1972 SC 749]. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a looser and he too would have incurred quiet a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."

9. In the facts of the present case noting sufficient cause being adduced by the assessee and keeping the interest of justice in mind, we are of the view that the delay in the filing of appeal before Ld. CIT(A) needs to be condoned. We direct accordingly and restore the appeal back to the Ld. CIT(A) to be adjudicated on merits after giving due opportunity of hearing to the assessee.
10. The appeal of the assessee is allowed for statistical purposes.

This Order pronounced in Open Court on

26/02/2026

Sd/-

**(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

Ahmedabad; Dated 26/02/2026

TANMAY, Sr. PS

Sd/-

**(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad