

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos. 1761 & 1762/Bang/2025
Assessment Year : 2016-17

M/s. Prowiin Wealth Management, No. 74/C, 2 nd Floor, Dr. Rajkumar Road, 3 rd Stage, Prakash Nagar, Rajajinagar, Bengaluru – 560 021. PAN: AARFP0449B	Vs.	The Income Tax Officer, Ward – 2(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri H. Siva Prasad Reddy, ITP
Revenue by	:	Shri Subramanian .S, JCIT-DR

Date of Hearing	:	04-03-2026
Date of Pronouncement	:	04-03-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

These are the appeals filed by the assessee challenging the orders of the NFAC, Delhi both dated 09/06/2025 in respect of the quantum appeal as well as the penalty appeal for the A.Y. 2016-17.

2. The assessee is a partnership firm providing financial and investment consultancy, loan syndication etc. to the needy people. The banks and other financial institutions were paying commissions based on the volume of

business done by each individual. The firm filed their return of income on 08/09/2016 along with the audit report in form 3CA and 3CD of the Act. The return was processed u/s. 143(1) of the Act. Thereafter the AO selected the case of the assessee for scrutiny and notice u/s. 143(2) as well as notice u/s. 142(1) were issued. The assessee also filed the details called for by the AO. Thereafter the AO had made the assessment u/s. 143(3) of the Act determining the total income at Rs. 1,00,78,318/- by disallowing the commission paid to the partners on the ground that the payments does not comply with section 40(b)(v) r.w. CBDT Circular 739 dated 25/03/1996. Simultaneously, the penalty proceedings u/s. 271(1)(c) of the Act were also initiated.

3. Aggrieved with the said assessment as well as the penalty proceedings, the assessee filed appeals before the Ld.CIT(A) with a delay of 386 days in respect of the quantum appeal and 202 days in respect of the penalty appeal. The assessee in form no. 35 in S.No. 15 had given a brief reasons for the delay in filing the appeals and submitted that the detailed submission will be submitted at the time of personal hearing. The Ld.CIT(A) sent a communication to the assessee to furnish the condonation application along with the cogent tenable evidence by 26/05/2025. The assessee had not submitted any detailed application to condone the said delay along with the evidence but requested a further period of 15 days. The Ld.CIT(A) had observed that till 09/06/2025, the assessee had not filed any such applications and therefore the Ld.CIT(A) had dismissed the said appeals as the delay has not been properly explained and therefore not maintainable.

4. As against the said orders, the present appeals have been filed before this Tribunal.

5. At the time of hearing, the Ld.AR filed a chart showing the events happened on various dates and submitted that the delay is not wilful and therefore the Ld.CIT(A) ought to have condoned the said delay instead of

rejecting the appeal in toto. The Ld.AR also submitted that because of the unforeseen circumstances happened in the auditor's family, the compliance could not be made by filing a detailed delay condonation affidavit and prayed that one more opportunity may be granted to the assessee to appear before the Ld.CIT(A) along with the detailed delay condonation affidavit.

6. The Ld.DR submitted that the assessee had not responded to the notice issued by the Ld.CIT(A) for filing the detailed delay condonation affidavit and therefore the Ld.CIT(A) had correctly observed that the assessee had not substantiated the delay with cogent tenable evidence despite having been afforded an opportunity and prayed to dismiss the appeals.

7. We have heard the arguments of both sides and perused the materials available on record.

8. We have perused the form 35 and in S.No. 15, the assessee had given very cryptic reasons for the delay in filing the appeal. It is also not disputed that the Ld.CIT(A) had informed the assessee to file a fresh detailed delay condonation affidavit which the assessee had failed to furnish the same. We have also perused the reasons stated by the assessee that because of the non-granting of the personal hearing, the assessee was not able to file the delay condonation affidavit. The reasons stated in S.No. 15 of form 35 also states that the detailed submissions about the delay in filing the appeal would be submitted at the time of personal hearing. Therefore the assessee was under the bonafide impression that they can file the detailed delay condonation affidavit at the time of personal hearing but unfortunately, the appeal was decided without granting such personal hearing. In any event, we are satisfied that the assessee had explained the delay by filing the chronological events happened at the time of filing the appeals and therefore the assessee was prevented from filing the appeals in time. Since the Ld.CIT(A) had not adjudicated the grounds on merits, but dismissed the appeal on the ground of limitation, we are also not adjudicating the grounds raised by the assessee on merits.

9. We therefore, inclined to set aside the orders of the Ld.CIT(A) and remit these issues to the file of the Ld.CIT(A) for denovo consideration and the assessee is also directed to file the detailed delay condonation applications before the Ld.CIT(A). In the event of filing the detailed delay condonation application by the assessee, the Ld.CIT(A) is further directed to consider the said applications on merits and in accordance with law and thereafter decide the appeals on merits. With the above directions, we are partly allowing the appeals filed by the assessee.

10. In the result, both the appeals filed by the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 04th March, 2026.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SOUNDARARAJAN K.)
Judicial Member

Bangalore,
Dated, the 04th March, 2026.
/MS /

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| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore