

आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर
IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अवधेश कुमार मिश्र, लेखा सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM &
SHRI AVDHESH KUMAR MISHRA, AM

आयकर अपील सं. / ITA No: 69/RPR/2026
(निर्धारण वर्ष Assessment Year: 2015-16)

Vinod Kumar Khailashchandra Verma, House No.496/9, Avanti Vihar, Sector-2, Telibandha, Raipur-492001 (C.G.)	Vs	Income Tax Officer, Ward 3(1), Central Revenue Building, Civil Lines, Raipur, C.G. 492001
PAN: AANPV5964B		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	None. (Adjournment petition filed.)
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	20/02/2026
घोषणा की तारीख / Date of Pronouncement	:	06/03/2026

आदेश / ORDER

Per Avdhesh Kumar Mishra, AM:

This appeal for Assessment Year ('AY') 2015-16 filed by the assessee is directed against the order dated 03.12.2025 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre ('NFAC'), Delhi ['CIT(A)'] passed under section 250 of the Income Tax Act, 1961 ('Act').

2. The appellant assessee has raised following grounds of appeal: -

"1. That, on the facts and in law, the Ld. CIT(A), NFAC, Delhi erred in dismissing the appeal in-limine, refusing to condone the delay, without appreciating the facts of the case and provisions of relevant law, and

therefore, the impugned appellate order is bad in law and liable to be set aside.

2. *That, on the facts and in law, notice u/s 148 dt. 31/03/2021 was never served to the appellant and therefore, in the absence of a valid notice being served to the appellant in accordance with the provisions of law, the proceedings are illegal and unsustainable in law, and therefore, the consequential order passed thereunder dt. 29/03/2022 is invalid and liable to be quashed.*
3. *That, on the facts and circumstances of the case and in law, order passed u/s 147 rws 144 dt. 29/03/2022 is without jurisdiction, illegal and bad in law as the approval u/s 151 from Ld. PCIT, Raipur-1, Raipur dt 31/03/2021 is not signed, following the order of our own Raipur Bench in case of Manoj Kumar Sahu Vs. ITO-2(1), Bhilai [ITA no. 474/Rpr/2025, dt. 22/09/2025], and hence the impugned order dt. 29/03/2022 is liable to be quashed.*
4. *That, Ld. CIT(Appeals), Raipur-3 erred in confirming the following additions:*
 - i. *Addition of Rs.1,00,36,75.00 u/s 69A;*
 - ii. *Addition of Rs.2,89,486.00 as Income from Other sources; and*
 - iii. *Addition of Rs.59,28,000.00 as Short Term Capital Gain.**All these additions are liable to be deleted.*
5. *That the appellant reserves the right to add, alter or modify any ground of appeal.”*

2.1 The 1st ground challenges the non-admission of appeal by rejecting the delay condonation application by the Ld. CIT(A). The 2nd & 3rd ground, legal grounds, challenge the validity of reopening of assessment. The 4th ground is in respect of merit of the additions made in the assessment order.

3. The relevant facts giving rise to this appeal are that the assessee has filed its original Income Tax Return ('ITR') declaring income of Rs.2,89,486/-. Later, based on the information that the assessee had sold an immoveable property worth of Rs.59,28,000/- and deposited cash of Rs.1,00,36,750/- which did not get commensurate with the ITR, re-opened the case under section 148 of the Act.

Consequential assessment under section 144 rws 144 and 144B of the Act was completed at income of Rs.1,62,54,236/-, wherein following additions, in absence of any compliance on the part of the assessee, were made:

Sl.	Description	Amount (in INR)
1.	Unexplained money u/s 69A	Rs.1,00,36,750/-
2.	Income from Other Sources	Rs.2,89,486/-
3.	STCG on sale of Land	Rs.59,28,000/-
4	Total income/Loss determined	Rs.1,62.54,236/-

4. Aggrieved with the reassessment order, the assessee filed belated appeal (1051 days) before the Ld. CIT(A), who did not admit the appeal as there was no condonation delay petition filed by the assessee. The relevant finding of the impugned order is reproduced as under:

“7.1 At the first instance, it is noticed that the appellant had mentioned in its Form 35 Column No. 2(b) date of Order as 29.03.2022 and served to the assessee. Therefore, the appeal should be filed on or before 28-04-2022, within the time permitted u/s. 249(2) of the Act. However, the appeal has been filed on 08-04-2025 i.e. with a delay of 1051 days for which the appellant has not submitted any condonation request.

7.1.2 Examination of Delay and Reasons for Non-Consideration

The appeal has been filed with an extraordinary delay of 1051 days against the assessment order dated 29.03.2022. The appellant has not submitted any request for condonation of delay under section 249(3) of the Income-tax Act, 1961. In light of the material available on record, the following points are pertinent for not considering the appeal for condonation of delay:

- **Absence of Any Explanation or Justification:**

The appellant has failed to provide any reason or explanation for the delay of nearly three years in filing the appeal. No evidence or material has been placed on record to substantiate circumstances beyond their control.

· **Non-Filing of Condonation Request:**

Section 249(3) permits condonation of delay only upon a satisfactory showing of "sufficient cause". In this case, as the appellant has not made any condonation request, the statutory condition for condonation is not fulfilled.

· **Excessive Delay:**

The delay of 1051 days is substantial, and such a long delay cannot be considered as unintentional without any supporting documents or explanation. The appeal, if admitted, would defeat the legislative intent of timely filing of appeals.

· **No Evidence of Bona Fide Attempt to File Appeal:**

The record shows no attempt by the appellant to approach the authorities earlier. There is neither correspondence nor any communication indicating a reasonable or bona fide effort to file the appeal within the statutory period.

· **Precedent for Strict Adherence to Time Limits:**

The Hon'ble Courts have consistently held that condonation of delay is entirely at the discretion of the authority and cannot be granted in the absence of sufficient cause. Mere passage of time or inaction on part of the appellant cannot be ground for condonation.

Conclusion:

The appellant has not made any specific request for condonation of delay, which is mandatory when an appeal is filed after the due date. In Form 35, at Column No. 2(c), the appellant has mentioned the date of service of the assessment order as 25.03.2025, and since the appeal was filed on 06.04.2025, he claims that the appeal is within the time prescribed under section 249(2) of the Act.

Further, to substantiate his claim of non-service of the assessment order prior to 25.03.2025, the appellant contended that, as per Rule 127 of the Income-tax Rules, service ought to have been effected on his e-mail ID lkjainryp@yahoo.com and at his physical address, House No. 496/9, Sector-2, Avanti Vihar, Telibandha, Raipur (C.G.) 492001. He stated that, as per the latest ITR for A.Y. 2021-22, his email ID is lkjainryp@yahoo.com, and therefore the order should have been served on this ID instead of jhas4999@gmail.com. He further stated that his address was updated in subsequent ITRs and hence the assessment order ought to have been served on the updated address rather than the address at which it was served: Vinod kumar Kailaschandra Varma, Opp. Varma Jewellers, Station Road, Pimprigoan, Pune 411017, Maharashtra."

I have carefully considered the submissions on the issue of service. After examining the material available on record and the assessment order, the issue of service is evaluated in the context of the Faceless Assessment Scheme under section 1448. Before arriving at a conclusion, it is necessary to refer to the statutory mandate under section 1448(6)(ii):

.....
.....

In view of the foregoing, the appeal is not admissible due to inordinate delay and absence of any condonation request. Accordingly, the appeal is dismissed on the ground of limitation."

5. Before us, the assessee was not represented by anyone. Therefore, we heard Dr. Priyanka Patel, Ld. Sr. DR, who argued the case vehemently and prayed for dismissal of the appeal.

6. We have heard Dr. Priyanka Patel, Ld. Sr. DR at length and have perused the material available on the record. We have perused the Central Board of Direct Taxes (CBDT) notification bearing F. No. S.O. 3296 (E), dated 25-9-2020 issued in

exercise of the powers conferred under section 250(6B) of the Act. We have also taken note of the categorical observation of the Ld. CIT(A) that the assessee has not filed any justification for condonation of delay. After thoughtful consideration of the impugned order, we are unable to infer that whether the Ld. CIT(A) has provided any specific opportunity of being heard to the assessee before non-admitting the appeal on the issue of limitation. The right of appeal is a valuable right and unless expressly taken away or abandoned, it could not be held that the appellant had abandoned or lost such right by implication [*Indian Aluminium Co Ltd. Vs. CIT* 162 ITR 788 (Cal.)]. The right to appeal is not merely a matter of procedure. It is a substantive right. The Act read with the Notification F. No. S.O. 3296 (E), dated 25-9-2020 put specific restrictions and limitations on the scope and manner of exercise of the right of filing appeal and also limitations & powers of the Appellate Authorities. Considering the importance of the right to appeal of the appellant assessee, since it bestows upon him an opportunity of getting a wrong undone and to mitigate the possibility of financial loss, the right to appeal should be viewed from a broad-based liberal perspective and not by applying a strict, constricted and myopic view. The decision whether the right to appeal is available in a particular circumstance should be guided by the form and not substance of the order appealed against [*CIT Vs. Ashoka Engineering Co.* 63 Taxman 510/194 ITR 645 (SC)].

7. After thoughtful consideration of the material available on the record, we are of the view that the appellant assessee deserves reasonable opportunity of

being heard to make shortcomings or non-compliance if any. Therefore, considering the facts of the case. afore-stated observations and without offering any comment on merit of the case, we, in the interest of justice, deem it fit to set aside the impugned order and remit the matter back to the file of the Ld. CIT(A) to provide an opportunity of being heard to the assessee to file the delay condonation application and decide the fate of that delay condonation application afresh in accordance with the law and the Notification F. No. S.O. 3296 (E), dated 25-9-2020 after hearing the assessee. The case on merit thereafter, if required, shall be decided as per the law. We order accordingly. The appellant assessee should ensure compliances during the remitted appellate proceeding before the Ld. CIT(A). Needless to say that the Ld. CIT(A) is also required to provide reasonable opportunities of being heard to the appellant assessee.

8. In the result, the appeal of assessee is **allowed for statistical purposes as above.**

Order pronounced in the open court on 06/03/2026.

Sd/-
(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(AVDHESH KUMAR MISHRA)
लेखा सदस्य / ACCOUNTANT MEMBER

रायपुर / Raipur; दिनांक Dated 06/03/2026

HKS, PS

आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent

3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण,
रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

//True copy//

(Private Secretary)
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur