

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH  
MUMBAI**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER  
AND  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 5791/MUM/2025  
Assessment Year: 2018-19**

Tulu Koota Airoli Office No.6/7 Ground Floor, Venus Mension Co.Op Hsg, Plot 20/21, Sector 20D Navi Mumbai, Airoli S.O., Thane, Maharashtra- 400101  (PAN: AACAT3819K)	Vs.	Income Tax Officer, Exmp. Ward- 2(4), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Ms. Kinjal Bhuta, Advocate  
Revenue : Shri Ujjwal Kumar, Sr. DR

Date of Hearing : 11.03.2026  
Date of Pronouncement : 17.03.2026

**ORDER**

**PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is against the order of Addl./JCIT (A)-1, Surat, vide order no. ITBA/APL/S/250/2025-26/1079008122(1), dated 29.07.2025, passed against the intimation issued by CPC, Bengaluru, u/s. 143(1) of the Income-tax Act (hereinafter referred to as the “Act”), dated 26.09.2019, for Assessment Year 2018-19.

2. Grounds taken by assessee are reproduced as under:

*1. The Ld. Addl/JCIT(A) erred in dismissing the appeal by rejecting the request made for condonation in delay in filing of appeal. That the delay was owing to genuine reasons and the dismissal is arbitrary and not justified.*

*2. The Ld. Addl/JCIT(A) erred in confirming in not allowing the exemption claimed w/s. 11 of the Income Tax Act, 1961 amounting to Rs. 24,15,938/- without considering the merits of the case. That filing of Audit report in Form No.10B is*

*procedural in nature and form filed before the due date of return of income ought to be considered.*

3. Through ground no.1, assessee is contesting on the denial of condonation of delay in filing the first appeal by the ld. Addl./JCIT(A). Fact of the matter is that there was a delay of 1977 days in filing the first appeal. Assessee had filed its return of income on 14.08.2018, reporting total income at Rs.3,06,536/-. The said return was processed u/s. 143(1) by Central Processing Centre, Bengaluru (CPC) by issuing intimation, dated 26.09.2019. Claim of the assessee is that, said intimation was sent through email, however, it remained un-noticed, since its trustee, who was managing the affairs of the assessee was undergoing serious medical and personal difficulties during the relevant period. Assessee being a charitable trust, its managing committee changes every two years and hence the necessary compliance in this respect of the intimation remained pending. It was only when a notice for adjustment of refund for Assessment Year 2024-25 was issued on 07.01.2025, whereby it was proposed to adjust the refund of that year against the outstanding demand for the year under consideration that assessee came to know about the outstanding demand which had arisen on account of intimation issued u/s.143(1). Thereafter, immediate necessary actions were undertaken of engaging a tax professional and filing the first appeal. These reasons were explained in the first appellate proceedings for condonation of delay, which were negated and the appeal was dismissed as not maintainable in view of section 249(2) without dealing on the merits of the case.

4. Assessee is a registered charitable trust with the main object of promoting and providing educational aid to students, medical aid to needy and relief of the poor. Return of the assessee was processed u/s.143(1) on 26.09.2019 wherein exemption claimed u/s.11 and 12 were denied on account of delay in filing Form 10B. Claim of the

assessee is that it had filed Form 10B on 03.10.2018 for which acknowledgement of receipt of the said form is placed on record in the paper book, having e-filing acknowledgement no. "319892681031018". On this factual position, assessee asserted that Form 10B was available on record with the Department when its return was taken up for processing while issuing intimation u/s.143(1), dated 26.09.2019. Assessee also referred to Central Board of Direct Taxes (CBDT) order vide F.No.225/358/2018/ITA-II, dated 24.09.2018, whereby the due date for filing of returns as well as all the reports of audit which were required to be filed by the said specified date was extended from 30.09.2018 to 15.10.2018. It accordingly, claimed that Form 10B filed by it on 03.10.2018 is within the extended due date of 15.10.2018. This verifiable factual matrix has not been considered leading to imposition of tax demand on the assessee. The delay caused in filing the first appeal has been adequately explained which has been negated leading to genuine hardship at the end of the assessee, more particularly, when it is engaged in charitable cause.

5. From the above, we note that trigger point for the assessee as claimed by it for taking up filing of appeal was the intimation issued by CPC, Bengaluru, proposing to adjust the refund for Assessment Year 2024-25 against the outstanding demand for Assessment Year 2018-19. Copy of the said intimation is placed on record in the paper book. Assessee has also submitted a screen shot from the e-portal of the Department which mentions about processing the refund adjustment, vide communication made u/s.245 of the Act. Assessee has taken all the necessary steps immediately for filing the appeal on this trigger event, explaining by way of an affidavit for non-receipt of the intimation which was originally issued on 26.09.2019, which remained un-noticed by the assessee for the reasons stated in the above paragraphs.

6. To address the issue in hand before us, we need to delve into the understanding of the expression “sufficient cause”. Sub-section 3 of Section 249 contemplates that the CIT(A) may admit an appeal after expiry of relevant period, if he is satisfied that there was a “sufficient cause” for not presenting it within that period. Similarly, it has been used in section 5 of Indian Limitation Act, 1963. Whenever interpretation and construction of this expression has fallen for consideration before Hon'ble High Court as well as before the Hon'ble Supreme Court, then, Hon'ble Court were unanimous in their conclusion that this expression is to be used liberally.

6.1. 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."*

6.2. 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. 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."*

7. We do not deem it necessary to re-cite or recapitulate the proposition laid down in other decisions. It is suffice to say that the Hon'ble Courts are unanimous in their approach to propound that whenever the reasons assigned by an applicant for explaining the delay, then such reasons are to be construed with a justice oriented approach.

8. In light of the above and for the just decision of the controversy, it is incumbent upon us to condone the delay. Thus, taking the circumstances holistically, we condone the delay of 1977 days in filing the first appeal before the Id. CIT(A).

9. In the given set of fact, having condoned the delay at the first appellate stage, we remit the matter back to the file of Id. CIT(A) for *denovo* meritorious adjudication by taking in to consideration Form 10B filed by the assessee. We also direct the assessee to be diligent in making all its submissions, so as to comply with the notices for the hearing for effective and expeditious disposal of the appeal. Needless to say, assessee be given reasonable opportunity of being heard and to make all the relevant submissions as required to substantiate the claim made by it. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

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

Order is pronounced in the open court on 17 March, 2026

Sd/-  
(Pawan Singh)  
Judicial Member

Sd/-  
(Girish Agrawal)  
Accountant Member

*Dated: 17 March, 2026*

*MP, Sr.P.S.*

Copy to:

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai