

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.184/RPR/2026

निर्धारण वर्ष / Assessment Year : 2017-18

Tirath Singh Prithpal Singh
Raipur Road, Kondagaon,
Bastar-494 226
PAN: AABFT4954F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward- Kankar (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Veekaas S Sharma, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 18.03.2026

घोषणा की तारीख / Date of Pronouncement : 18.03.2026

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 31.12.2025 for the assessment year 2017-18 as per the grounds of appeal on record.

2. At the very outset, it is noted that the appeal filed by the assessee before the Ld.CIT(Appeals)/NFAC was time barred by 299 days and the assessee was not able to furnish sufficient cause for condonation of such delay u/s.249(3) of the Income Tax Act, 1961 (for short 'the Act').

3. At the time of hearing, the Ld. Counsel has prayed for one final opportunity to submit before the Ld. CIT(Appeals)/NFAC sufficient cause explaining the said delay, to which, the Ld. Sr. DR did not object to.

4. The aforesaid identical and similar issue has been dealt with by the **ITAT, Division Bench, Raipur** in the case of **Prabal Aadhar Seva Sansthan Vs. ITO (Exemption), Ward-1, Raipur (C.G.), ITA No.553/RPR/2025, A.Y.2023-24, dated 13.11.2025** wherein the Tribunal has held and observed as follows:

“4. The issue to be looked into in the present matter is whether the assessee was always vigilant enough regarding proceedings i.e. the appeal to be filed before the Ld. CIT(Appeals)/NFAC and what are the genuine efforts that were conducted by the assessee with his Counsel/Chartered Accountant so to file the appeal on time. In other words, it

has to be seen whether the assessee was vigilant assessee, bonafide assessee and whether he has made sufficient efforts to ensure filing of its case before the first appellate authority on time. After verifying all these areas, only one can understand whether such ground of delay would be condoned in terms with Section 249(3) of the Act.

5. At the time of hearing, the Ld. Counsel for the assessee submitted that if one final opportunity is provided to the assessee, they will furnish all the relevant documents/evidences explaining the condonation of delay before the Ld. CIT(Appeals)/NFAC.

6. The Ld. Sr. DR did not raise any objection as regards the contentions raised by the Ld. Counsel for the assessee.

7. Considering the entire facts and circumstances, in the interest of substantive justice, we allow one final opportunity to the assessee to present relevant evidence/documents before the Ld. CIT(Appeals)/NFAC explaining the reasons for condonation of delay and after going through those evidences, the Ld. CIT(Appeals)/NFAC shall specifically decide whether such delay can be condoned as per Section 249(3) of the Act and then decide on merits of the case in terms with Section 250(4) & (6) of the Act. Further, as per the dictate of the decision of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom)**, the Ld. CIT(Appeals)/NFAC had no power to dismiss an appeal in limine on the ground of non-prosecution and the same jurisprudence transcends into the situation that the Ld. CIT(Appeals)/NFAC has no power to dismiss an appeal in limine on ground of delay only without referring and discussing the contents of the assessment order and Form 35 and its annexures. Needless to say, the Ld. CIT(Appeals)/NFAC shall afford reasonable opportunity of being heard to the assessee as per law. Accordingly, the order of the Ld. CIT(Appeals)/NFAC is set-aside.

8. As per the above terms, grounds of appeal raised by the assessee stands allowed for statistical purposes.

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

5. The purpose of law in terms with welfare legislation is always served if the principles of natural justice are complied with. Here in this case, where no substantive adjudication was done by the Ld. CIT(Appeals)/NFAC since the matter was dismissed on the ground of delay for the reason that the assessee was not able to explain sufficient cause in terms with Section 249(3) of the Act, therefore, in the interest of natural justice, and as per the aforesaid decision on the same parity of reasoning and as per similar terms, I restore the matter back to the file of the Ld. CIT(Appeals)/NFAC to decide on the issue of delay and once the delay is condoned, thereafter, it may proceed to decide the issue on merits as per law. The assessee shall also comply with the hearing notices of the Ld. CIT(Appeals)/NFAC.

6. As per the above terms, grounds of appeal raised by the assessee are allowed for statistical purposes.

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

Order pronounced in open court on 18th day of March, 2026.

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

रायपुर / Raipur; दिनांक / Dated : 18th March, 2026.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur