

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.173/PUN/2026
Assessment year : 2018-19**

Sandhya Shrikant Kadam Vidya Nagar East, Near Ganga Narayan Hospital, Barshi Road, Beed – 431122	Vs.	ITO, Ward-1(5), Aurangabad
PAN: CGXPK1065L		
(Appellant)		(Respondent)

Assessee by : Shri Prateek Jha
Department by : Shri Gaurav K Singh, JCIT

Date of hearing : 30-03-2026
Date of pronouncement : 30-03-2026

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 27.09.2025 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2018-19.

2. The only issue raised by the assessee in the grounds of appeal relates to the order of the Ld. CIT(A) / NFAC in not condoning the delay of 191 days on account of insufficient cause and thereby dismissing the appeal filed by the assessee.

3. There is a delay of 50 days in filing of the appeal before the Tribunal for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay. It has been mentioned in the condonation

application that the assessee is a house wife and has no regular source of income for which she did not file her return of income u/s 139(1) of the of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The assessee's father had got allotment of flat from MHADA in the year 2009 and he passed away in the year 2015. The assessee's mother Smt. Kamal Sadashivrao Pol, who became the owner of this flat, sold it on 05.12.2017 for a consideration of Rs.1,52,00,000/-. Her two daughters and two sons were the confirming parties to the sale transactions and none of the confirming parties have received any amount out of the sale consideration. The case of the assessee was reopened u/s 148 of the Act in response to which the assessee filed her ITR declaring total income of Rs.48,200/-. She also submitted the particulars of transaction of sale, evidence of acquisition of the flat and copy of bank statement of her mother to show that she had not received any amount of sale consideration. However, the Assessing Officer treated the entire sale consideration of Rs.1,52,00,000/- as income of the assessee from long term capital gain. The assessee filed an appeal before the Ld. CIT(A) / NFAC on 16.10.2024. The assessee received notice of hearing from the office of the Ld. CIT(A) / NFAC. The assessee uploaded detailed written arguments narrating all the facts of the case. However, the Ld. CIT(A) / NFAC did not consider the facts of the case and dismissed the appeal filed by the assessee on account of delay. Since the assessee did not receive the copy of the appellate order and came to know of the order of the Ld. CIT(A) / NFAC only when she received SMS from the Income Tax Department. Thereafter, the consultant appointed by the assessee found that the appeal of the assessee filed against the penalty order passed u/s

272A(1)(d) of the Act was passed and the Ld. CIT(A) / NFAC had deleted the penalty of Rs.30,000/-. However, appeal filed against the order of the Ld. CIT(A) / NFAC has been dismissed. Thereafter, the assessee took steps in filing of the appeal before the Tribunal by which time there was a delay of 54 days. Relying on various decisions he submitted that the Ld. CIT(A) / NFAC should not have dismissed the appeal on account of delay and should have decided the appeal on merit by condoning the delay. He accordingly submitted that he has no objection if the matter is restored to the file of the Ld. CIT(A) / NFAC with a direction to condone the delay in filing of the appeal and decide the issue on merit.

4. The Ld. DR on the other hand opposed the arguments of the Ld. Counsel for the assessee.

5. After hearing both the sides, we are satisfied that there was a reasonable cause on the part of the assessee in filing of the appeal before the Tribunal. We find the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. reported in 167 ITR 471 (SC) has held that 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. 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.

6. We find recently the Hon'ble Supreme Court in the case of Inder Singh Vs. The State of Madhya Pradesh reported in 2025 LiveLaw (SC) 339 has held as under:

“14. There can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause, but a major aspect which has to be kept in mind is that, if in a particular case, the merits have to be examined, it should not be scuttled merely on the basis of limitation.”

7. In the light of the above decisions of Hon'ble Supreme Court cited (supra), we condone the delay in filing of the appeal before the Tribunal and the appeal is admitted for adjudication.

8. So far as the appeal of the assessee is concerned, we find similar reasons were given to the Ld. CIT(A) / NFAC also for condoning the delay. However, the Ld. CIT(A) / NFAC while dismissing the appeal of the assessee had not condoned the delay and decided the issue by observing as under:

2.8 The appellant has filed an appeal against the assessment order dated 09.03.2024 for A.Y. 2018-19, with a delay of 191 days. In her application for condonation of delay, the assessee has submitted that she is a housewife with no regular income and that she was unaware of the assessment order as she did not receive a copy of the same. She has stated that she came to know about the penalty orders and assessment status only when an acquaintance checked the online portal and informed her. The assessee has attributed the delay to lack of knowledge, absence of professional assistance, and her personal circumstances. While the assessee has referred to the judgment of the Hon'ble Supreme Court in the case of *Collector, Land Acquisition v. Mst. Katiji* [(1987) 167 ITR 471 (SC)] to support her plea for condonation, it is important to note that the condonation of delay is not automatic. The assessee is required to establish that there was **sufficient cause** for not filing the appeal within the prescribed time. The reasons cited, namely, lack of awareness, failure to receive physical order copy, and absence of professional help,

do not convincingly establish that the delay was unavoidable or beyond the assessee's control. In the present age of digitization and regular online communication by the Income Tax Department through e-filing portal, email, and SMS, it is expected of the assessee or her representatives to exercise reasonable diligence in tracking proceedings, especially in a case involving reassessment under section 148 and high-pitched additions.

2.9 Moreover, the assessee had been actively responding to notices with help from her acquaintance, which shows that she had some awareness of the ongoing proceedings. The claim that she was unaware of the order until penalty proceedings were noticed lacks corroboration and appears to be an afterthought. Mere absence of a professional consultant or ignorance of legal timelines cannot, by itself, constitute a sufficient cause.

2.10 In view of all the above, I am of the opinion that the appellant has not demonstrated sufficient cause for the delay. Since, the explanation submitted by the appellant does not have substance and that the appellant has not discharged the onus of "sufficient cause" within the meaning of section 249 of the I.T.Act. Hence the delay in filing the appeal after 191 days cannot be accepted.

2.11 Hence in view of these facts and on the strength of the judicial decisions referred on the pre-pages the delay in filing the appeal does not merit condonation and the appeal is treated to be filed late with reference to the provisions of section 249(3) of the Act. The same is accordingly dismissed without going into the merits of the case.

9. In the preceding paragraphs while deciding the issue of delay in filing of the appeal before the Tribunal we have relied on the decisions of the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors (supra) and Inder Singh Vs. The State of Madhya Pradesh (supra). Following similar reasonings, we restore the matter to the file of the Ld. CIT(A) / NFAC with a direction to condone the delay in filing of the appeal and decide the issue on merit and as per fact and law after giving due opportunity of being heard to the assessee. The assessee is also hereby directed to make her submissions, if any, on the

appointed date without seeking any adjournment under any pretext failing which the Ld. CIT(A) / NFAC is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

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

Order pronounced in the open Court on 30th March, 2026.

Sd/-

(ASTHA CHANDRA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 30th March, 2026
GCVSR

Sd/-

(R. K. PANDA)
VICE PRESIDENT

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'B' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

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Assistant Registrar
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1	Draft dictated on	30.03.2026		Sr. PS/PS
2	Draft placed before author	30.03.2026		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
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11	Date of Dispatch of order			