आयकर अपीलीय अधिकरण,चण्डीगढ़ न्यायपीठ, चण्डीगढ़

IN THE INCOME TAX APPELLATE TRIBUNAL DIVISION BENCH, 'B' CHANDIGARH

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1142/CHD/2025

निर्धारण वर्ष / Assessment Year: 2011-12

Shri Sukhdev Singh, Village-Dheerpur, PO-Khanpur Koliyan, Tehsil-Thanesar, Kurukshetra.	Vs	The ITO, Ward No. 3, Kurukshetra.
स्थायी लेखा सं./PAN NO: ETGPS8505H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Dhruv Goel, CA
Revenue by : Dr. Ranjeet Kaur, Sr.DR

Date of Hearing : 11.03.2026
Date of Pronouncement : 15.04.2026

PHYSICAL HEARING

O R D E R

PER RAJ PAL YADAV, VP

The assessee is in appeal before the Tribunal against the order of the ld. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 19.08.2024 passed for assessment year 2011-12.

2. The Registry has pointed out that appeal is time barred by 309 days. The assessee has filed an application for

condonation of delay. The main thrust of his explanation is that he is an agriculturist. He was not served with the impugned order physically nor any SMS was given. It was difficult for him to locate the order on the Portal. Hence, the appeal could not be filed well in time. The ld. counsel for the assessee prayed that delay be condoned and appeal be decided on merit.

2.1 On the other hand, ld. DR opposed the order of the assessee on the ground that he should be more vigilant in prosecuting the litigation with the Revenue.

3. Sub-section 5 of Section 253 contemplates that the Tribunal may admit an appeal or permit filing of memorandum of cross- objections after expiry of relevant period, if it is satisfied that there was a sufficient cause for not presenting it within that period. This expression sufficient cause employed in the section has also been used identically in sub-section 3 of section 249 of Income Tax Act, which provides powers to the ld. Commissioner to condone the delay in filing the appeal before the Commissioner. 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. 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.

4. Similarly, we would like to make reference to authoritative pronouncement of Hon'ble Supreme Court in the case of N. Balakrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123 dated 03.09.1998. 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 finislitium (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 Could 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".

5. In the light of above, if we peruse the explanation of the assessee, then it would reveal that assessee has no knowledge of income tax litigation. He was wholly dependent upon his

counsel. His erstwhile counsel who has filed an appeal before the ld.CIT (Appeals) did not apprise him about the disposal of appeal and filing further appeal before the ITAT. The order was not served upon him physically, rather it was uploaded on the Portal.

5. On due consideration of the above facts and circumstances, we are of the view that by making the appeal time barred, assessee would not gain anything, rather he would be under tax liability of an addition of Rs.55,55,000/-. Therefore, we condone the delay and proceed to decide the appeal on merit.

6. The solitary substantial grievance on merit is that ld.CIT (Appeals) has erred in dismissing the appeal of the assessee for want of prosecution and thereby confirming the addition of Rs.55,55,000/-. At the time of hearing, we have passed the following interim order :

> *"The Assessee is in appeal before the Tribunal against the order of Ld. CIT(A) dated 19.8.2024 passed for AY 2011-12. The Assessee has taken four grounds of appeal, however, his grievance revolves around two issues namely –*
>
> *a) Ld. CIT(A) has erred in upholding the reopening of assessment.*
> *b) The CIT(A) has erred in confirming the addition of Rs. 55,55,000/-.*
>
> *The brief facts of the case are that Assessee has agreed to sell agricultural land 91 Kanals for a consideration of Rs. 1,83,13,750/-. This agreement was executed on*

23.03.2010 and a sum of Rs. 50 lacs was received in advance in cash. The agreement was duly notarized and also recorded in the Register of Deed writer. As per agreement, sale deed was to be executed on and before 25.4.2010. The sale deed executed on 22.4.2010 whereby Assessee has received Rs. 75 lacs through bank draft. The case of the Assessee is that the deposits in the bank account is out of cash received as part sale consideration. The ld. Counsel for the Assessee submitted that though the Assessing Officer has not discussed any of this aspect but copy of the sale deed, copy of agreement, copy of bank statement etc. were filed before the Assessing Officer, which have not been discussed by him. As far as the appeal before Ld. CIT(A) is concerned, it was submitted that the Assessee has filed the appeal physically but later on it was transferred to Faceless Authority and no notice was served either upon the Assessee or on the Counsel through whom appeal was filed. The ld. Counsel for the Assessee took us through sale deed, copy of the agreement as well as bank statement.

With the assistance of Ld. representatives, we have gone through the record carefully. We conclude the hearing and direct the Sr. DR to call a report from the Assessing Officer within 15 days exhibiting the facts whether these documents (documents available in the paper book) are available on the record or not. We will be dictating the order after 15 days. Copy of this order sheet shall be supplied to both the parties.

Sd/- *Sd/-*
(KRINWANT SAHAY) ***(RAJPAL YADAV)***
Accountant Member ***Vice President***

6.1 As discernable from the above order, we have given an opportunity to the AO for explaining the stand put forth by the assessee. The ld. AO has filed his reply, which reads as under :

FNo. ITO/Ward-1/KKR/2025-26 *Dated: 16.03.2026*

To

The Income Tax Officer (Hq.)
O/o Commissioner of Income Tax (D.R.)
ITAT, Chandigarh.

Sub: Appeal pending before the Hon'ble ITAT, Bench-B, Chandigarh in the case of Sh. Sukhdev Singh, Kurukshetra in ITA No. 1142/Chd/2025, for the Assessment Year 2011-12 (PAN: ETGPS8505H)

Please refer to your letter No. 1174 dated 11.03.2026 on the subject cited above.

2. In this regard, it is submitted that the documents mentioned by :he assessee are not available on record upto the date of assessment order.

3 During the appeal proceedings, the assessee has submitted as under :

> *"That the Ld. AO, Ward-3, Kurukshetra disallowed cash deposits of Rs.55,00,000/ unexplained, even though, the appellant assesses appeared personally before the Ld. AO on 12/10/18 and explained that the money was received from sale of agricultural land & whole money was invested in purchase of other agricultural land. When the Ld. AO required the copies of agreement to sell along with copies of bank account, to which the assesses sought 1 month time to produce all the requisite documents. Consequently, the case was adjourned to 09/11/2018. On the said date i.e. 9/11/18, the assesses appeared again & duly handed over the 1/18 and his attendance was affidavit of the Assessee is appended as Annexure A-7.*

The assessee has submitted additional evidence before the CIT(A) where the has submitted copy of the following documents among others:

1. *Register entry of Document Writer*
2. *Conveyance Deed (regd.)*
3. *Register entry of Document Writer*
4. *Conveyance Deed*
5. *Bank Passbooks*

However, none of the above documents was available on record before passing of the assessment order. Only the account statement provided by the bank was available with the assessing officer while passing the assessment order.

4. As per order sheet entry dated 23.10.2018, the assessee had appeared personally and submitted that he had deposited cash out of sale proceeds of agricultural land. The assessee was requested to submit the ITR, and information along with supporting documents as asked for vide notice u/s 142(1). The assessee was requested to submit the documents by 19.11.2018. However, there is no record of the assessee appearing before the AO or submitting the required documents.

Submitted for information, please.

Yours faithfully,
Sd/-
(Vijay Kumar Saini)
Income Tax Officer, Ward-1
Kurukshetra

6.2 A perusal of the record would indicate that AO has set the assessment machinery in motion by issuance of a notice u/s 148 on the ground that he received an information exhibiting the fact that assessee has deposited Rs.55.55 lacs in his Saving Bank Account with Punjab National Bank. The assessee appeared once and submitted that it represents the sale consideration of agricultural land. However, according to the AO, thereafter assessee did not submit relevant details. A perusal of the record would indicate that assessee has sold 90 kanal of rural agricultural land for a sum of Rs.1,83,13,750/- He has received Rs.50 lacs in cash on 23.03.2010 which was deposited in the bank account. Copy of the Sale Deed is available on page No. 5 to 8 of the Paper Book. A perusal of the Sale Deed would indicate that it was executed for a sale consideration of Rs.75,10,000/-, however, according to the assessee, the deal was materialized for a sum of Rs.1.83 Cr as discernable in the copy of the Agreement which was entered verbatim same in the register of Deed Writer and copy of the

Deed Writer's Register has been placed on page No. 9 to 10 of the Paper Book.

7. A perusal of the reply of the AO would indicate that he has not commented anything on the copy of the Sale Deed and other relevant documents produced before the CIT (Appeals) which were remitted to him but he has only observed that prior to passing the assessment order, these documents have not been produced. We have confronted with a situation where according to the assessee, he has submitted all the documents to the AO as well as to the CIT (Appeals). The ld.CIT (Appeals), instead of deciding the appeal on merit, as contemplated in sub-clause (6) of Section 250 of the Act, dismissed it for want of prosecution. The AO did not bother to verify the facts whether assessee has sold the land or not. The documents are there on his record, though sent by the CIT (Appeals). However, looking into all these aspects, we are convinced that source of deposits in the bank was from sale proceeds of agriculture land. There is no other means to the appellant vide which it could be construed that assessee has earned

unexplained money which was deposited in the accounts. Therefore, we allow this appeal and delete the addition.

8. In the result, appeal is allowed.

Order pronounced on 15.04.2026.

Sd/- Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

(RAJPAL YADAV)
VICE PRESIDENT

"Poonam"

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

सहायक पंजीकार/ Assistant Registrar