

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

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

**ITA No.3082/PUN/2025
Assessment year : 2015-16**

Abdul Gani Dawood Khan Deshmukh 601, Elite Residency, Plot No.23, Sec 35E Owe Kharghar Raigad, Navi Mumbai – 410210	Vs.	ITO, Ward 2, Panvel
PAN: BWFPD3978N		
(Appellant)		(Respondent)

Assessee by : CA Satyawan A Dalal
Department by : S/Shri Ravi Prakash & Madhan
Thirmanpalli, Addl. CIT (virtually)

Date of hearing : 13-04-2026
Date of pronouncement : 15-04-2026

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 16.10.2025 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2015-16.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the Ld. CIT(A) / NFAC in dismissing the appeal filed by the assessee due to delay in filing of the same by 30 days.

3. Facts of the case, in brief, are that the assessee is an individual and has not filed his return of income for the impugned assessment year. Information was

available with the department that the assessee has purchased immovable property valued at Rs.51,70,000/- and has not filed his return of income. Therefore, following due procedure u/s 148A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), a show cause notice u/s 148A(b) of the Act was issued. However, there was no response from the side of the assessee for which the Assessing Officer passed an order u/s 148A(d) of the Act. Thereafter, notice u/s 148 of the Act was issued and served on the assessee. However, there was no response from the side of the assessee. Subsequent notices issued u/s 142(1) of the Act were also remained un-complied with. The Assessing Officer, therefore, in the *ex-parte* order passed u/s 147 r.w.s. 144 of the Act determined the total income of the assessee at Rs.51,70,000/-.

4. Since the assessee filed the appeal before the Ld. CIT(A) / NFAC with a delay of 30 days, the Ld. CIT(A) / NFAC dismissed the appeal by observing as under:

7.3 During the course of appellate proceedings, the appellant has filed the written submission and the same is perused by the undersigned. The appellant has filed this appeal belatedly by 30 days and requested for condonation of delay. The appellant has submitted that the appellant was outside India and returned to India only in March, 2024 and furnished the copy of the passport. The copy of the passport furnished by the appellant is perused and found that there is no entry by the Airport Customs Authorities in the passport in the year 2024. Therefore, the appellant claim

is not correct and appellant could not furnish the documentary evidences for delay in filing appeal. Further, the appellant could not establish the reasonable cause for delay in filing appeal. In view of the above-mentioned facts and discussions, in the absence of supporting documents and there is no reasonable cause, the delay in filing appeal is not condoned and the appeal is not admitted. The case is not taken up for adjudication on merit. Therefore, the appeal of the appellant is dismissed.

5. Aggrieved with such order of the Ld. CIT(A) / NFAC the assessee is in appeal before the Tribunal.

6. The Ld. Counsel for the assessee drew the attention of the Bench to the explanation given before the Ld. CIT(A) / NFAC for condonation of delay which reads as under:

Condonation for delay in filing Appeal

The appellant was not aware about the assessment proceedings as he stays outside India. He came to know about the assessment order only when he logged in on e-filing portal on 22nd February 2024.

His mother expired in month of March 2024, only when he came to india for her funeral. During his visit to India in March 2024 he collected all the documents required for appeal and submitted to his Consultant after which his consultant evaluated the case and filed appeal on 9th April 2024.

We request the CIT(Appeals) to allow the delay in filing this appeal on the basis of above mentioned reasons.

7. Relying on various decisions the Ld. Counsel for the assessee 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.

8. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and the Ld. CIT(A) / NFAC.

9. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case completed the assessment u/s 147 r.w.s. 144 of the Act determining the total income of the assessee at Rs.51,70,000/- by making addition of the same on the ground that the assessee has not offered any explanation towards purchase of immovable property. We find the Ld. CIT(A) / NFAC dismissed the appeal filed by the assessee on the ground that there was a delay in filing of the same by 30 days and the assessee has not given any reasonable cause for delay in filing of the appeal. It is the submission of the Ld. Counsel for the assessee that due to his mother's death during 2024 the assessee came to India for his mother's funeral and he was not aware of any order till that date. It is also his submission that in view of various decisions of the Hon'ble Supreme Court the Ld. CIT(A) / NFAC should have decided the issue on merit.

10. We find some force in the above arguments of the Ld. Counsel for the assessee. 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.

11. 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.”

12. In the light of the above decisions of Hon'ble Supreme Court cited (supra) and considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue 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.

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

Order pronounced in the open Court on 15th April, 2026.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER
पुणे Pune; दिनांक Dated : 15th April, 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, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Assistant Registrar
आयकर अपीलीय अधिकरण ,पुणे
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S.No.	Details	Date	Initials	Designation
1	Draft dictated on	13.04.2026		Sr. PS/PS
2	Draft placed before author	13.04.2026		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
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Office Superintendent			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			