

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“G” BENCH, MUMBAI**  
**BEFORE SMT. BEENA PILLAI (JUDICIAL MEMBER)**  
**&**  
**SHRI JAGADISH (ACCOUNTANT MEMBER)**  
**I.T.A. No. 6657/Mum/2025**  
**Assessment Year: 2017-18**

<b>Sharda Marketing</b> 2 Navrang Apartments Kopal Road Behind Siah School Dombili(West) Mumbai - 421202 <b>[PAN: AANFS8454R]</b>	Vs.	<b>ACIT, Circle-3, Kalyan</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Assessee by</b>	Shri B.N. Rao, AR
<b>Revenue by</b>	Shri Suni Mathews, Sr. AR

<b>Date of Hearing</b>	09.04.2026
<b>Date of Pronouncement</b>	20.04.2026

**ORDER**

**Per Smt. Beena Pillai, JM:**

The present appeal filed by the assessee arises out of the order dated 17/09/2025 passed by the NFAC, Delhi [hereinafter the “Ld.CIT(A)”] for A.Y. 2017-18.

2. The assessee is a partnership firm engaged in the business of marketing. The return of income for A.Y. 2017-18 was filed declaring total income of Rs.3,200/-. The case was selected for scrutiny and assessment was completed u/s 144 of the Act vide order dated 23/12/2019 determining total income at Rs.4,93,32,567/- by making additions inter alia on account of cessation of liability u/s 41(1), disallowance of expenses and excess remuneration to partners.

Aggrieved by the said order, the assessee preferred an appeal before the Ld.CIT(A).

**3.** The appeal was required to be filed on or before 21/01/2020, however, the same was filed on 25/02/2022 resulting in delay of 796 days. The assessee filed a petition for condonation of delay stating that the assessment order was not properly received, the accountant handling the tax matters expired during the Covid period, and the assessee came to know about the assessment only when penalty proceedings were initiated. Thereafter, after obtaining a copy of the assessment order the assessee filed appeal before Ld.CIT(A).

The Ld.CIT(A), however, was not satisfied with the explanation furnished and held that the assessee had failed to establish sufficient cause within the meaning of section 249(3) of the Act. Accordingly, the delay was not condoned and the appeal was dismissed in *limine* without adjudicating the issues on merits. Aggrieved the assessee is in appeal before this *Tribunal*.

**4.** The Ld. AR submitted that the delay in filing the appeal was neither intentional nor deliberate but occurred due to genuine and unavoidable circumstances. It was contended that the assessment order was not received in time and the accountant who was handling the tax matters expired during the peak Covid period, which disrupted the compliance process. It was further submitted that a substantial portion of the delay falls within the Covid period during which limitation stood excluded by virtue of statutory relaxations and judicial directions.

**4.1.** The Ld. AR further submitted that the assessment was completed u/s 144 of the Act and therefore the assessee did not get an effective opportunity to present its case before the Ld.AO as well. It was contended that the Ld.CIT(A) erred in dismissing the

appeal on technical grounds without considering that substantial justice should prevail over technicalities. It was thus prayed that the delay be condoned and the matter be restored to the file of the Ld.CIT(A) for adjudication on merits.

**4.1.** Per contra, the Ld. DR supported the order of the Ld.CIT(A) and submitted that the delay of 796 days is inordinate and the assessee has failed to establish sufficient cause for condonation of delay. It was submitted that the Ld.CIT(A) has examined the explanation furnished by the assessee and has rightly rejected the condonation petition in accordance with law. It was thus contended that the order of the Ld.CIT(A) does not call for any interference.

We have perused the submissions advanced by both sides in light of the records placed before this *Tribunal*.

**5.** It is an undisputed fact that the appeal before the Ld.CIT(A) was filed with a delay of 796 days. From the material placed on record, it is observed that a substantial portion of the delay falls within the Covid period during which limitation stood excluded by virtue of the orders of the *Hon'ble Supreme Court* in *In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No. 3 of 2020*. After granting the benefit of such exclusion, the effective delay stands considerably reduced.

**5.1.** It is further noticed that the assessment in the present case was completed u/s 144 of the Act. This clearly indicates that the assessee did not effectively participate in the assessment proceedings and, therefore, did not get adequate opportunity at the assessment stage. The dismissal of the appeal by the Ld.CIT(A) *in limine*, without adjudicating the issues on merits, resulted in

denial of opportunity at both stages. The explanation furnished by the assessee, namely, non-receipt of the assessment order, demise of the accountant during the Covid period and subsequent knowledge of the assessment during penalty proceedings, in our considered opinion, cannot be said to be lacking in bona fides. The same constitutes a reasonable and plausible cause for delay as per Section 274 of the Act.

**5.2.** It is well settled that the expression “sufficient cause” appearing in section 249(3) of the Act should receive a liberal construction so as to advance substantial justice. The *Hon’ble Supreme Court* in *Collector, Land Acquisition vs. Mst. Katiji* (167 ITR 471) has held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. Similarly, in *N. Balakrishnan vs. M. Krishnamurthy* (1998) 7 SCC 123, the *Hon’ble Apex Court* has held that length of delay is not material and acceptability of the explanation is the only criterion, and that a litigant should not be denied adjudication on merits unless the delay is attributable to *mala fide* conduct of the litigant.

**5.3.** Further, the *Hon’ble Supreme Court* in *Senior Bhosale Estate (HUF) vs. ACIT* (Civil Appeal Nos. 6671–6676 of 2010) held that unless the cause of delay is not expressly refuted, the stand taken by the appellant cannot be disbelieved. In the present case, the Ld.CIT(A) dismissed the appeal solely on the ground of delay without considering the merits of the additions made in the assessment order passed u/s 144 of the Act, wherein substantial additions have been made. In our considered view, such an approach is not justified, particularly when the explanation offered by the assessee is plausible and does not indicate any deliberate

or *mala fide* intention to delay the proceedings. The revenue has not filed any counter affidavit opposing the submissions on the delay caused in filing appeal before Ld.CIT(A). Therefore, as held by *Hon'ble Supreme Court*, there is sufficient cause made out by the assessee.

**5.4.** Considering the totality of the facts and circumstances of the case, and respectfully following the judicial precedents discussed hereinabove, we are of the view that this is a fit case where the delay in filing the appeal deserves to be condoned in the interest of substantial justice. Accordingly, we set aside the impugned order of the Ld.CIT(A) and restore the matter to his file with a direction to condone the delay and adjudicate the issues on merits after providing adequate opportunity of being heard to the assessee.

**5.5.** Accordingly, the impugned order of the Ld.CIT(A) is set aside and the matter is restored to his file with a direction to condone the delay in filing the appeal and adjudicate the issues on merits after providing adequate opportunity of being heard to the assessee. The assessee is also directed to cooperate in the appellate proceedings and not to seek unnecessary adjournments.

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

**Order pronounced in the open court on 20/04/2026**

**Sd/-**

**(JAGADISH)  
Accountant Member**

**Sd/-**

**(BEENA PILLAI)  
Judicial Member**

Mumbai  
Dated: 20/04/2026  
SC Sr. P.S.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order

(Asstt. Registrar)  
**ITAT, Mumbai**