

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.1435/PUN/2024
Assessment year : 2009-10

Ravindra Joma Bhagat Plot No.9, Mouli Chhaya, Road No.9, New Panvel, Navi Mumbai – 410206	Vs.	ITO, Ward 1, Panvel
PAN: ACQPB9592E		
(Appellant)		(Respondent)

ITA Nos.338 & 339/PUN/2025
Assessment year : 2009-10

Ravindra Joma Bhagat Plot No.9, Mouli Chhaya, Road No.9, New Panvel, Navi Mumbai – 410206	Vs.	ITO, Ward 1, Panvel
PAN: ACQPB9592E		
(Appellant)		(Respondent)

ITA Nos.414 to 416/PUN/2025
Assessment year : 2010-11

Ravindra Joma Bhagat Plot No.9, Mouli Chhaya, Road No.9, New Panvel, Navi Mumbai – 410206	Vs.	ITO, Ward 1, Panvel
PAN: ACQPB9592E		
(Appellant)		(Respondent)

Assessee by : S/Shri Suresh Kumar Gundher and
Abhishek Bothra
Department by : Shri Amit Bobde, CIT
Date of hearing : 25-06-2025
Date of pronouncement : 27-06-2025

ORDER**PER BENCH:**

The above batch of 6 appeals filed by the assessee are directed against the separate orders dated 25.09.2023 of the Ld. CIT(A) / NFAC, Delhi relating to assessment years 2009-10 and 2010-11 as mentioned therein. For the sake of convenience, these appeals were heard together and are being disposed of by this common order.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the *ex-parte* order of the Ld. CIT(A) / NFAC in confirming the order of the Assessing Officer making the additions / levying the penalty.

3. There is a delay of 221 days in filing of all these appeals before the Tribunal for which the assessee has filed condonation applications along with the affidavits explaining the reasons for such delay. It has been explained that the appeal order by the Ld. CIT(A) / NFAC was uploaded in the income tax portal and was not served to the assessee in physical manner or electronically through e-mail for which the assessee was not aware that the appeal has been dismissed by the Ld. CIT(A) / NFAC on 25.09.2023. The assessee came to know of such order only after the notice for recovery of demand was made. It has further been explained that the assessee is a senior citizen and was not keeping good health and was

suffering from serious medical illness for which he was advised complete bed rest. Further, many litigations including civil and criminal cases of land acquisition were also going on for which the assessee was disturbed. The assessee accordingly requested to condone the delay in filing of all these appeals by the assessee.

4. The Ld. DR on the other hand strongly opposed the condonation applications filed by the assessee. Referring to the chronology of events, he submitted that the assessee was non-cooperative before the Ld. CIT(A) / NFAC despite 6 opportunities granted by him and therefore, cannot say that he was not aware of the appeal order.

5. We have heard the rival contentions and have gone through the contents of the condonation applications filed along with the affidavits. 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. Respectfully following the above decisions of the Hon'ble Supreme Court and considering the fact that the assessee is a senior citizen and was suffering from serious medical illness, we condone the delay in filing of all these appeals and admit these appeals for adjudication.

8. A perusal of the order of the Ld. CIT(A) / NFAC in each case would show that he has dismissed the appeals for want of prosecution. We find in ITA No.1435/PUN/2024 for assessment year 2009-10, the Ld. CIT(A) / NFAC while dismissing the appeal has observed as under:

“4. It is pertinent that in order to decide this appeal in a timely manner, a number of notices/communications/correspondences were made through ITBA portal to the appellant, viz., communications dated 23.08.2022, 15.11.2022, 29.12.2022, 02.02.2023, 27.04.2023, and 14.09.2023. However, there has been no compliances from the part of the appellant till date. There is no gainsaying that once the appeal is filed by the appellant, it is obligatory on its part to purposefully and co-operatively pursue the same in a worthwhile manner, which the appellant has evidently failed to do. Hence, in view of the aforesaid total non-compliance of the instant appeal on the part of the appellant, the instant appeal is adjudicated and disposed of, as under, ex-parte, primarily on the basis of documentation available on record. The appellant has failed to avail the opportunity to file / furnish the submissions/documents in support of the grounds of appeal though the appellant was offered for sufficient opportunity to file/furnish the submissions during the course of appellate proceedings. Furthermore, it is pertinent that the appellant has not sought any adjournment during the appellate proceedings.

5. In the result, the appeal of the appellant is dismissed.”

9. He has similarly dismissed the other appeals also by recording as above. A perusal of the above shows that the Ld. CIT(A) / NFAC has dismissed the appeals for want of prosecution but has not decided the appeals on merit as mandated u/s 250(6) of the Act.

10. We find the provisions of section 250(6) of the Act which reads as under:

“250(1).

...

(6) The order of the [Joint Commissioner (Appeals) or the] Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

11. However, the Ld. CIT(A) / NFAC in the instant case has dismissed all the above 6 appeals for want of prosecution and has not decided the issue on merit as per the provisions of section 250(6) of the Act. Considering the totality of the facts of the case and in the interest of justice and without going into the merits of each appeal, we deem it proper to restore the issue to the file of the Ld. CIT(A) / NFAC with a direction to decide all the appeals on merit by passing a speaking order. The assessee is also hereby directed to appear before the Ld. CIT(A) / NFAC on the appointed date and make his submissions, if any, without seeking any adjournment under any pretext failing which the Ld. CIT(A) shall be at liberty to pass appropriate order as per law. At the same time, because of the callous attitude of the assessee in not responding to the notices issued by the office of the Ld.

*ITA No.1435/PUN/2024
ITA Nos.338 & 339/PUN/2025
ITA Nos.414 to 416/PUN/2025*

CIT(A)/NFAC, we levy a cost of Rs.5,000/- for each appeal on the assessee i.e. Rs.30,000/- in total which shall be deposited within two months from the receipt of this order. The Ld. CIT(A) / NFAC shall ensure that the cost has been deposited before disposal of the appeals. We hold and direct accordingly. The grounds raised by the assessee in all the appeals are accordingly allowed for statistical purposes.

12. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the open Court on 27th June, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 27th June, 2025

GCVSR

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.

Sd/-
(R. K. PANDA)
VICE PRESIDENT

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

ITA No.1435/PUN/2024
ITA Nos.338 & 339/PUN/2025
ITA Nos.414 to 416/PUN/2025

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	25.06.2025		Sr. PS/PS
2	Draft placed before author	27.06.2025		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 Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			