

**IN THE INCOME TAX APPELLATE TRIBUNAL
“E” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER&
HON'BLE SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No. 1853/Mum/2025
(Assessment Year: 2018-19)**

Hydroair Tectonics PCD PCD Limited 501, Concorde Premises Co-op. Society, Plot No. 66A, Sector 11, CBD, Belapur – 400614.	Vs.	Asst\ . Commissioner of Income Tax, Central Circle 2(1), Mumbai
PAN/GIR No. AAACH9686C		
(Applicant)		(Respondent)

Assessee by	Shri Subhash Kumar Kedia, CA
Revenue by	Shri Hemanshu Joshi, SR DR

Date of Hearing	13.05.2025
Date of Pronouncement	02.07.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 31.01.2025 passed u/s 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre, Delhi (NFAC) for the assessment year 2018-19.

2. From the records, we noticed that the assessee was ex-parte before the Ld.AO and Ld. CIT(A) dismissed the appeal as the same was filed beyond the period of limitation (i.e delay of 937 days) and consequently while dismissing the application for condonation of delay, the appeal was dismissed.

3. We have heard the counsels for both the parties, perused the material placed on record and the orders passed by the revenue authorities.

4. From the records, we noticed that assessee has filed a detailed explanation thereby explaining the reason for seeking condonation of delay. The assessee has mentioned reasons for non compliance before the CIT(A) in affidavit as under:

2. That I am along with my wife Raj Kumari Singh aged about 81 years, both are directors of M/s Hydroair Tectonics PCD Ltd, since the inception of the company since 2001. There is no other director or Key Managerial person except both of us. We directly look after the affairs of the company and are supported by a few staff members to take care of company affairs.

3. I affirm that both of us are very old and are super senior citizen and not having good health and not attending the office very often and are dependent on support staffs.

4. Since the inception of the company the staff members take care of all inward and outward communications including emails messages on consultation with us. We are not directly involved in going through the email messages received by the

company and one of the staff members looks after that and bring to our notice, as and when required.

5. I confirm that due to outbreak of COVID-19 during 2020-21 and 2021-22 we were advised by our doctor and to follow the Govt. advisory we were not allowed to come out of our home and were not attending office during this period. Even our staff members were also mostly working from their home and very rarely coming to office during those days.

6. I affirm that the notice of hearing even received on company email was not forwarded to any of us and was not brought to our notice by our staff due to not attending office regularly. As such the notice was not received by us and no action was taken against such notices.

7. I further affirm that Mr. Ravi Singh, whom the last notice was said to be delivered in person on 12-03-2021, is a junior staff, and he has not handed over the notice to us as such, that notice also remained out of our knowledge and no submissions were made for that.

8. I affirm that we were not aware about the scrutiny proceedings and its outcome and were not having even the Assessment Order thereof. So could not decide and file any appeal against such order in due time.

9. During November 2023 only while navigating the Income Tax portal our Tax Consultant noticed about the scrutiny proceedings and the assessment order and then within a few days we filed an appeal with CIT(Appeals).

10. I affirm that the delay in filing of appeal was unintentional and beyond my control. That we have taken immediate steps to file an appeal as soon as we came to know about the assessment order.

11. That I request the Income Tax authorities and Income Tax Appellate Tribunal to kindly condone the delay in filing of appeal and accept my delayed filing of appeal as valid.

5. Considering the entire factual position as explained before us and also keeping in view, the principles laid down by Hon'ble Supreme Court in the case of ***Land Acquisition Collector Vs. Mst. Katiji & Ors., [1987] AIR 1353 (SC)***, wherein it has been held that where substantial justice is pitted against technicalities of non-deliberate delay, then in that eventuality substantial justice is to be preferred. In our view the principals of advancing substantial justice is of prime importance. Hence considering the explanation put forth by the Assessee by justifiably and properly explaining the delay which occurred in filing the appeal and construing the expression "sufficient cause" liberally we are inclined to condone the delay in filing the appeal before Ld. CIT(A). Therefore, we condone the delay in filing the appeal before Ld. CIT(A).

6. Since we have already condoned the delay, therefore we restore the matter back to the file of Ld.CIT(A) for deciding the same on merits after providing fair opportunity of hearing to both the parties. The assessee shall not seek any adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

7. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld. CIT(A) shall in no way be construed as having any reflection or expression

on the merits of the dispute which shall be adjudicated by the Ld.CIT(A) independently in accordance with law.

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

Order pronounced in the open court on 02.07.2025

Sd/-

(PRABHASH SHANKAR)
(ACCOUNTANT MEMBER)

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 02/07/2025

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai