Rआयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।

In The Income Tax Appellate Tribunal, Rajkot Bench, Rajkot

Before Dr. Arjun Lal Saini, Accountant Member

And

Shri Sonjoy Sarma, Judicial Member

आयकर अपील सं./ITA No. 770/RJT/2025

[निर्धारण वर्ष/Assessment Year: 2017-18]

Vimal Harilal Baldaniya T.C.X. S-31, Chawla Chowk Gandhidham-370201, Gujarat	**Vs.**	ITO, Ward -2 Income-tax Office, Plot No. 32, Sector No. 3, Near IFFCO Colony, Gandhidham-370201, Gujarat
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: **APPPB4910A**		
(अपीलार्थी/Appellant)		**(प्रत्यर्थी/Respondent)**

Appellant by : Shri Mehul Thakkar , Ld. AR
Respondent by : Shri Ravinder Sindhu, Ld. CIT(DR)

Date of Hearing : 14/10/2026
Date of Pronouncement : 15/10/2026

:: ORDER ::

Per, Shri Sonjoy Sarma, JM:

The instant appeal has been filed by the assessee against the order passed by the Ld. Principal Commissioner of Income-tax, Rajkot-1 [hereinafter referred to as "Ld.PCIT"] under section 263 of the Income-tax Act, 1961, [hereinafter referred to as "the Act"] dated 29.03.2024, whereby the Assessing Officer was directed to frame the assessment afresh in respect of the assessment completed under section 147 of the Act dated 24.03.2022.

02. Brief facts qua the issue are that the present appeal was originally filed by the assessee, Vimal Harilal Baldaniya, on 13.11.2025 against the order dated 29.03.2024

passed by the Ld. PCIT under section 263 of the Income-tax Act, 1961, involving a delay of 533 days. The assessee expired on 15.01.2026, during the pendency of the appeal. Thereafter, Shri Rajveer Vimal Baldaniya, being the legal heir of the deceased assessee, filed Form No. 36 to pursue the appeal on behalf of the deceased assessee. An affidavit has also been filed by the legal heir seeking condonation of the delay in filing the appeal and explaining the circumstances leading thereto.

03. At the outset, the Ld. AR submitted following the demise of the assessee, the legal heir pursued the matter and sought condonation of the delay. Accordingly, it was prayed that the delay of 533 d ays be condoned on merits. The extract of affidavit filed by legal heir of assessee is as under:

> *"I, the undersigned, Shri Rajveer Vimal Baldaniya, being the legal heir of Late Shri Vimal Baldaniya, residing at Plot no 74/C ward 8A Subhashnagar near Gurudwara Gandhidham Kutch, Gujarat, India, do hereby solemnly affirm and state as under:*
>
> *1. That the order passed by the Ld. PCIT, Rajkot-1 under Section 263 of the Income-tax Act, 1961 was received on 30th March 2024.*
>
> *2. That upon receipt of the aforesaid order, Late Shri Vimal Baldaniya had consulted his tax advisor, Shri Viral Thacker, having office at Office No. 07, Vrundavan Complex 1, Near Public Garden Anjar - Kutch 370110.*
>
> *3. That he was advised to face the consequential proceedings before the Assessing Officer, and based on such advice and understanding of the matter at the relevant point of time, no appeal was preferred against the said order before the Hon'ble ITAT.*
>
> *4. That subsequently, the assessment order under Section 147 of the Act was passed on 07.03.2025, pursuant to the directions of the Ld. PCIT, making an addition of ₹1,48,979 under Section 69A of the Act.*
>
> *5. That thereafter, Late Shri Vimal Baldaniya sought a second opinion from Shri Ketan Thacker, having office at PHT & Co, Gandhidham, and under his guidance, an appeal before the CIT(A) was filed on 27th June 2025.*
>
> *6. That upon detailed examination of the records, it was advised that the order passed under Section 263 of the Act also required to be challenged before the Hon'ble ITAT, and accordingly, the appeal was prepared on 02nd July 2025 and the relevant papers were handed over.*

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7. That thereafter, due to inadvertent delay and circumstances beyond control, the appeal came to be filed before the Hon'ble ITAT, Rajkot Bench on 13.11.2025, resulting in a delay of 533 days from the prescribed time limit.

8. That Late Shri Vimal Baldaniya expired on 15.01.2026, and I, being the legal heir, am filing and affirming this affidavit in support of the application for condonation of delay.

9. That the delay in filing the appeal is neither intentional nor deliberate but has occurred due to bona fide reasons as stated above.

10. That this affidavit is being filed in support of the application for condonation of delay before the Hon'ble ITAT, Rajkot Bench."

04. The Ld. DR, on the other hand, vehemently opposed the application for condonation of delay. It was submitted that the assessee had participated in the assessment proceedings conducted by the Assessing Officer pursuant to the order passed under section 263 of the Act. However, the assessee did not challenge the revisional order within the prescribed period and filed the present appeal only after a considerable delay of 533 days. According to the Ld. DR, the subsequent challenge to the revisional order, after the passing of the consequential assessment order, reflects a deliberate litigation strategy rather than any sufficient cause for the delay. It was further contended that permitting an assessee to challenge a revisional order after the outcome of the consequential assessment proceedings would result in an endless process of litigation. The Ld. DR therefore, prayed that the delay not be condoned and that the application be dismissed. The Ld.DR also submitted written submission is following as under:

"1. The Appellant/Assessee originally did not file a return of income u/s 139(1) of the Income-tax Act, 1961 ("the Act") for Assessment Year (A.Y.) 2017-18. Information was received by the Department indicating that the Assessee made cash payments of Rs.1,48,979/- to M/s Kiran Motors Ltd. towards the purchase of a motor vehicle.

2. Reassessment proceedings were initiated u/s 147 of the Act after obtaining statutory approval, and notice u/s 148 was issued on 31.03.2021. In response, the Assessee e-filed a return of income on 20.12.2021 declaring total income of Rs.2,69,307/-. The Ld.Assessing Officer ("Ld. AO"), National Faceless Assessment Centre (NaFAC), Delhi, passed the reassessment order u/s 147 r.w.s. 144B on 24.03.2022, accepting the returned income without making any verification regarding the source of cash payment.

3. The Ld.Principal Commissioner of Income Tax ("Ld. PCIT"), Rajkot-1, on examination of assessment records, found that the reassessment order was passed without proper inquiry and verification regarding the vehicle's margin money payment. Information from Kiran Motors Ltd. confirmed cash receipts of Rs.1,48,979/-, whereas bank loans generally cover only up to 80% of vehicle cost. Finding the AO's order to be erroneous and prejudicial to the interest of the Revenue under Explanation 2(a) to Section 263(1), the Ld. PCIT passed a Revision Order u/s 263 on 29.03.2024, setting aside the assessment order for fresh verification u/s 69A r.w.s. 115BBE.

4. The Revision Order u/s 263 dated 29.03.2024 was duly served on the Assessee on 30.03.2024. Under Section 253(3) of the Act, an appeal against the Section 263 order ought to have been preferred before the Hon'ble ITAT within 60 days, i.e., on or before 29.05.2024. However, the Assessee preferred the present appeal on 13.11.2025, resulting in an inordinate, extraordinary, and unreasonable delay of 533 days.

5. The Assessee provided a justification regarding the delay in an application and affidavit filed before Your Honours. The justification offered concerning the delay is reproduced below:

> *"4. That upon receipt of the order under Section 263, the assessee had consulted his tax advisor and was advised to face the consequential proceedings before the Assessing Officer, based on the understanding of the matter at that relevant point of time.*
>
> *5. That subsequently, pursuant to the order under Section 263, assessment proceedings were carried out and an order under Section 147 came to be passed, after which a second opinion was obtained.*
>
> *6. That upon detailed examination of the case records, it was advised that the order passed under Section 263 also required to be challenged before this Hon'ble Tribunal.*
>
> *7. That accordingly, the appeal papers were prepared and necessary steps were taken for filing the appeal.*
>
> *8. That due to inadvertent delay and circumstances beyond control, the appeal came to be filed on 13.11.2025, resulting in the aforesaid delay."*

6. However, there is nothing on record to substantiate why the Assessee chose to sleep over his rights for over 1.5 years or why a change of legal opinion post- reassessment should be entertained as a valid ground. Merely blaming previous professional advice or seeking a "second opinion" after consequential assessment proceedings went against the Assessee does not absolve the Appellant of his statutory duties under the law of limitation. Under Section 282 of the Act, service of the Section 263 order on the portal constitutes valid legal service. A litigant who consciously elects to participate in fresh assessment proceedings before the AO cannot later turn around and challenge the revision order after 533 days upon receiving an unfavorable assessment outcome. This reflects a deliberate legal strategy rather than "sufficient cause".

7. The reason provided by the appellant could not successfully demonstrate that it had "sufficient cause" u/s 253(5) of the Income Tax Act for non presenting the appeal within the prescribed period of limitation u/s 253(3) of the Income Tax Act, 1961 r.w.s. 5 of the

Limitation Act and hence the unreasonable delay of 533 days in filing of appeal need not to be condoned.

8. It is humbly submitted that, in this case no "sufficient cause" was shown by the appellant to explain the huge/unreasonable delay in filing of appeal. Rather, this is a clear case of deliberate inaction or negligence on the part of the appellant. Period of delay is a factor to be considered while considering a delay condonation application, since the law assists those that are vigilant with their rights, and not those that sleep thereupon. The law of limitation in India identifies the need for limiting litigation by striking a balance between the interests of the State and the litigant. The general rule of the law of limitation is that an extension shall not be granted if there is no sufficient cause or cogent ground for the condonation of delay, the onus of proving which lies on the appellant as clearly laid down in the judicial pronouncements by the highest Court of Law.

9. In this regard, reliance is also placed on following judgments:-

9.1 In the case of Balwant Singh (Dead) v. JagdishSinh, (2010) 8 SSC 685, where in the court held that:

> *"25. We may state that even if the term sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of "reasonableness" as it is understood in its general connotation.*
>
> *26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a patty to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."*

9.2 In the case of University of Delhi Vs Union of India & Ors. in Civil Appeal No. 9488 of 2019 vide Order dated 17/12/2019, the Hon'ble Supreme Court has refused to condone delay by holding that,

> *"The entire explanation as noted above depicts the casual approach unmindful of the law of limitation despite being aware of the position of law. That apart when there is such a long delay and there is no proper explanation, laches would also come into play while noticing as to the manner in which a party has proceeded before filing an appeal.*
>
> *28. In the matter of condonation of delay and laches, the well accepted position is also that the accrued right of the opposite patty cannot be lightly dealt with."*

9.3 Similar views were expressed in the case of Basawaraj and Another versus Special Land Acquisition Officer (SC) wherein while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamount to showing utter disregard to the legislature."

9.4 Reliance is placed on the following decision wherein it was clearly held that delay on the part of CA/Advocate or his staff does not constitute a reasonable cause for condonation of delay:

(i) HIGH COURT OF BOMBAY Perfect Circle India Ltd. v. Assistant Commissioner of Income Tax [20201120 taxmann.com 262 (Bombay)

"8. At the outset, we may advert to the impugned order passed by the Tribunal, relevant portion of which is extracted hereunder:-

"11. Thus examining the present case on the touchstone of above, we find that in this case there has been inordinate delay of about 10 years in filing the appeal. Firstly, the assessee had submitted that it was an inadvertent error. In another affidavit assessee had tried to submit that appeal papers were prepared but were not filed without any reason by the Chartered Accountant. The submission is not supported for its veracity or reasoning. Furthermore, there is no rationale in allowing a person to file an appeal after ten years simply because ten years ago also he had thought of filing the appeal. There can be many reasons why a person having thought of filing an appeal may decide not to pursue the matter. Hence, the contents of the second submission cannot be treated but as an afterthought."

9. We do not find any error or infirmity in the view taken by the Tribunal"

(ii) HIGH COURT OF BOMBAY taxmann.com 268 (Bombay) Kanta v. Manjulabai 120191 108

"3. At the outset, it is to be mentioned that the delay is of 20 years. This delay is huge one. Merely because delay is huge one, that does not disentitle a party coming before the Court for condonation of delay. The quantum of delay may be one of. The consideration however it is not the final guiding factor for the Court to decide an application for condonation of delay. A party, who seeks indulgence from the Court in respect of condonation of delay to file the appeal, burden lies on the shoulder of such a party to explain the delay, though not day by day, but by giving plausible explanation. According to the Ld.counsel for the applicant, the applicant entrusted her brief to her advocate and her advocate did not take any steps to pursue the matter. Consequently, the delay has occurred inasmuch as it is the submission of the "Ld.counsel that the counsel, who was representing the applicant, did not inform the outcome of the litigation to her.

4. This submission, at the first blush, appears very attractive and tends the Court to interfere with the matter. However, after hearing the Ld.counsel for the applicant,

especially when a query was put to the Ld.counsel in respect of the conduct on the part of the applicant as to whether at any point of time, she on her own, contacted her advocate, the reply was in negative. A litigant who approaches to the Court must be diligent. He or she must take all steps to pursue his or her litigation. It is expected from the litigant that he or she is in contact with the lawyer who is representing his or her cause in the Court of law. A litigant cannot take a spacious plea that once the case is entrusted with an advocate his or her work is over and the advocate will take care of the matter. An Advocate always discharges his duties on the instructions given to him by his client.

5.In the present case, Mr. Motwani, leamed counsel for the applicant could not point out before this Court that at any point of time from 18.10.1997, when the decree, which is sought to be challenged before this Court, was passed, the applicant even remotely tried to contact her advocate to know the fate of litigation.

6.In the application, it is stated that she entrusted her matter to Mr. Vilas Mate, of Tumsar. She never met with Mr. Bhole, Advocate. According to the leamed counsel for the applicant, Mr. Bhole might, on instructions from Mr. Vilas Mate, have appeared before the Court below.

7. It is very easy for a litigant to make allegations against an advocate behind his back. If the applicant wishes to make allegations against the advocate, the applicant should have courage to join the advocate as a party and in his presence should make allegation against him. Here, the applicant wants to condemn the advocate behind his back. In my view, it is impermissible and unacceptable. Further, no steps are also being taken by the applicant against any advocate under the provision of the Advocates Act.

8. Thus, in my view, the reason as supplemented in the application is nothing but a attempt for claiming discretionary relief of condonation of delay from the Court. In my view, the applicant SUNIL has not explained the delay, rather has not given plausible explanation for delay. Hence, the application is liable to be dismissed and it is dismissed with costs of Rs. 1,000/- to be paid to the High Court Legal Services Sub Committee, Nagpur within three weeks from today.

9.The application is dismissed. Consequently, the second appeal is also dismissed."

(iii) K.G.N.M.M.W. Educational Research & Analysis Society v. Income-tax Officer, Jhalawar [2015154 taxmann.com 329 (Jaipur - Trib.)

"Where Chartered Accountant representing assessee-society filed appeal before Tribunal with a delay of 347 days taking a plea that he had gone for audit of a bank and in meantime his staff filed papers belonging to assessee in record, since delay was not explained on day to day basis, appeal was to be dismissed being barred by limitation. "

9.5 Further in the case of Mahant Bikram Dass Chela versus Financial Commissioner, Revenue, Punjab, Chandigarh And Others (SC), it has been held that:

"21. Section 5 of the limitation act is a hard task-master and judicial interpretation has encased it within a narrow compass. A large measure of case- law has grown around section 5, its highlights being that one ought not easily to take away a right which has accrued to a party by lapse of time and that therefore, a litigant who is not vigilant about his rights must explain every day's delay."

9.6 The Courts in the abovementioned cases, highlighted upon the importance introducing the concept of "reasonableness" while giving the clause "sufficient cause" a liberal

interpretation. In furtherance of the same, the Courts has cautioned regarding the necessity of distinguishing cases where delay is of few days, as against the cases where the delay is inordinate as it might accrue to the prejudice of the rights of the other party. In such cases, where there exists inordinate delay and the same is attributable to the party's inaction and negligence, the courts have to take a strict approach so as to protect the substantial rights of the parties.

10. From the above decisions it becomes clear that in the case of condonation of delay where the appeal was filed beyond the limitation of period, the courts are empowered to condone the delay, provided that the Appellant can prove his claim of inability to file appeal within the prescribed period. Litigant must be able to demonstrate that there was "sufficient cause" which obstructed his action to file Appeal beyond the prescribed time limit. The law of limitation is found upon the maxims "Interest Reipublicae Ut Sit Finis Litium" that litigation must come to end in the interest of society as a whole, and "vigilantibus non dormientibus Jura subveniunt" that the law assists those that are vigilant with their rights, and not those that sleep thereupon.

11. Thus, unless and until it is demonstrated that there was a "sufficient cause" that prevented the appellant from exercising its legal remedy of filing appeal within that prescribed period of 60 days, the delay thereafter cannot be condoned without there being compelling grounds as advocated by the Hon'ble Courts. In the present case, it clearly emerges that the appellant had not filed the appeal within a period of 60 days as prescribed u/s. 253(3) of the Act and even thereafter for 533 days. No reasonable cause has been satisfactorily brought out by the appellant. In view of the facts and legal precedence discussed above, when it is apparent from the records that the appellant had neglected/omitted to assert its rights in a timely manner, the condonation of delay in this case will surely jeopardize the legislative intent behind the provisions of the Income Tax Act as well as the Limitation Act. This position of law was also confirmed by the Hon'ble SC in the case of Shiv Dass V. UOI & Ors., AIR 2007 SC 1330.

12. Moreover, the Assessee has raised convoluted technical grounds alleging that the original reassessment order dated 24.03.2022 was itself illegal, non-est, and void ab initio. The Assessee contends that the notice under Section 148, issued on 01.04.2021, was governed by the substituted provisions of the Finance Act 2021, that the escaped income was below Rs. 50,00,000/- thereby making it time-barred under Section 149(1)(b), that the sanction was granted by an incorrect "Specified Authority," and that the Assessing Officer failed to dispose of the objections as laid down by the Hon'ble Supreme Court in GKN Driveshafts(India) Ltd. v. ITO [(2003) 259 ITR 19 (SC)] mandate.

13. It is an undisputed fact that the original assessment order under Section 147 read with Section 144B explicitly accepted the Assessee's returned income of Rs. 2,69,307/- without making any additions. The Assessee never challenged the jurisdiction of the notice under Section 148, nor did he challenge the resulting assessment order, precisely because the order was entirely in his favor. Having willingly participated in the reassessment proceedings and having happily benefited from an assessment order that accepted his returned income without conducting any scrutiny of his cash deposits, the Assessee is legally estopped from challenging the validity of those foundational proceedings now. An assessee cannot selectively approbate and reprobate, using the original assessment as a

shield only when it serves to defeat a valid Section 263 revision that exposed the Assessing Officer's failure to conduct inquiries.

14. On the substantive merits, the invocation of Section 263 by the Ld. PCIT is impeccably reasoned and securely anchored in the statutory framework, specifically Explanation 2 to Section 263(1) of the Act. The original reassessment was initiated based on specific, actionable information that the Assessee made an unexplained cash payment of Rs. 1,48,979/- to M/s Kiran Motors Ltd. towards the purchase of a motor vehicle.

15. During the assessment proceedings, the Assessee offered a remarkably superficial explanation, claiming the car was purchased on 18.01.2016 after taking a loan, yet spectacularly failed to submit any details, documentation, or proof of such a loan. The Assessing Officer entirely abdicated his investigative duties, making absolutely no effort to verify the correctness of the information from the lending institution or the automobile dealer, and blindly accepted the Assessee's submission without conducting even rudimentary verification. The Ld. PCIT rightly observed the commercial reality that financial institutions standardly finance only up to 80% of a vehicle's price, leaving the approximately 21% margin money (Rs. 1,48,979/-) paid in cash wholly unexplained by the Assessee. Since the bank statements submitted by the Assessee reflected no payment to Kiran Motors, the cash payment was an undisputed, unverified fact.

16. As explicitly stated in Explanation 2 to Section 263(1), an order passed by the Assessing Officer shall be deemed to be erroneous and prejudicial to the interests of the revenue if it is passed without making inquiries or verification which should have been made. The Assessing Officer's complete failure to investigate the source of the cash payment, his failure to treat it as unexplained deemed income under Section 69A, and his failure to apply the special tax rate under Section 115BBE, squarely triggers this provision, rendering the assessment order definitively erroneous and deeply prejudicial.

17. The Hon'ble Supreme Court in the case of CIT v. Paville Projects (P.) Ltd. [2023] 149 taxmann.com 115 (SC) has held as under:

> *"7.2 Thus, even as observed in paragraph 9 by this Court in the case of Malabar Industrial Co. Ltd. (supra) that the scheme of the Act is to levy and collect tax in accordance with the provisions of the Act and this task is entrusted to the Revenue. It is further observed that if due to an erroneous order of the Income- tax Officer, the Revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the Revenue. However, only in a case where two views are possible and the Assessing Officer has adopted one view, such a decision, which might be plausible and it has resulted in loss of Revenue, such an order is not revisable under section 263."*

18. The Hon'ble Kolkata High court in the case of Daniel Merchants (P.) Ltd. [2018] 95 taxmann.com 365 (SLP dismissed by Hon'ble Supreme Court in [2018] 95 taxmann.com 366) has held as under:

> *"5. In all these cases, we find that the Commissioner of Income Tax had passed an order under section 263 of the Income-tax Act, 1961 with the observations that the Assessing Officer did not make any proper inquiry while making the assessment and accepting the explanation of the assessee(s) insofar as receipt of share application money is concerned. On that basis the Commissioner of Income Tax had, after setting aside the order of the Assessing Officer, simply directed the Assessing Officer to carry thorough and detailed*

inquiry. It is this order which is upheld by the High Court. We see no reason to interfere with the order of the High Court."

19. The Hon'ble Bombay High Court in the case of Vedanta Ltd [2021] 124 taxmann.com 435 (Bombay HC) held that an assessment completed without proper inquiries empowers the Commissioner to invoke revisional jurisdiction and direct the Assessing Officer for a fresh assessment.

20. The Hon'ble Gauhati High Court in the case of CIT v. Jawahar Bhattacharjee [2012] 24 taxmann.com 215 (Gauhati HC) affirmed that cases involving an assessment order passed without due application of mind or on an incorrect assumption of facts are not beyond the scope of Section 263.

21. In light of above details, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

A) Dismiss the Assessee's application for condonation of delay and reject the appeal in limine, as the strategic delay of 533 days completely lacks "sufficient cause".

B) Reject the Assessee's technical grounds challenging the original Section 148 notice and Section 147 assessment order, as the Assessee willingly participated in and benefited from those proceedings, making the present challenge legally impermissible under the doctrine of approbate and reprobate.

C) Uphold and confirm the order passed by the Ld. PCIT under Section 263 of the Act, as the Assessing Officer's failure to conduct any inquiry into the cash payment rendered the assessment unequivocally erroneous and prejudicial to the interests of the Revenue."

05. We have heard the rival submissions of the parties and perused the material available on record. The short question for our consideration is whether the delay of 533 days in filing the present appeal against the order passed by the Ld.PCIT under section 263 of the Income-tax Act, 1961, deserves to be condoned. It is an undisputed fact that the order under section 263 of the Act was passed by the Ld.PCIT on 29.03.2024, directing the Assessing Officer to revisit the assessment order dated 24.03.2022. In pursuance of the said directions, the Assessing Officer passed a consequential assessment order under section 147 of the Act on 07.03.2025, making an addition of Rs.1,48,979/- under section 69A of the Act (as stated by his Affidavit at Para No. 4). However, the assessee challenged the revisional order only on 13.11.2025, with a delay of 533 days. The explanation furnished on behalf of the

assessee, as reflected in the affidavit filed by the legal heir, has been duly considered. However, the subsequent demise of the assessee on 15.01.2026, during the pendency of the appeal, cannot by itself explain or justify the delay that had already occurred during the lifetime of the assessee. The explanation must satisfactorily account for the delay for the relevant period.

06. The Ld. DR has contended that the assessee participated in the consequential assessment proceedings pursuant to the order under section 263 of the Act but did not challenge the revisional order within the prescribed period. The appeal was filed after the consequential assessment order had been passed. In these circumstances, the conduct of the assessee and the explanation furnished for the delay require careful consideration. The mere fact that the assessee was advised by a legal professional, or that a second opinion was subsequently sought, would not, in the absence of a satisfactory explanation covering the entire period of delay, automatically constitute sufficient cause. In this regard, **reliance is placed on the judgment of the Hon'ble Supreme Court in Balwant Singh v. JagdishSinh [2010] 8 SCC 685**, wherein the principles governing condonation of delay were considered. The Hon'ble Supreme Court emphasised that a liberal approach to condonation does not dispense with the requirement of establishing sufficient cause or the need to examine the conduct of the party concerned. Reliance was also placed on the **judgment of the Hon'ble Supreme Court in the case of University of Delhi v. Union of India & Others, in Civil Appeal No. 9488 of 2019, decided on 17.12.2019,** in support of the proposition that condonation of delay cannot be granted mechanically without examining the explanation furnished for the delay. Further, the Ld.Departmental Representative relied upon **judgement of the Hon’ble Bombay Court in the case of Perfect Circle India Ltd. v. Assistant Commissioner of Income Tax [2000] 120 taxmann.com 262 (Bombay**), as cited before us, in support of the objection to condonation. Having considered the rival

Case Citation: (2026) taxcode.in 85 ITAT

submissions and the material on record, we find that the decisive consideration is whether the assessee has demonstrated sufficient cause for the entire period of delay. The filing of the appeal after the consequential assessment order, without a satisfactory explanation accounting for the delay in challenging the revisional order, cannot by itself justify condonation. The subsequent demise of the assessee does not cure the deficiency in the explanation for the period preceding the filing of the appeal. According, subject to our satisfaction that the affidavit and other material on record do not satisfactorily explain the entire period of delay, we decline to condone the delay of 533 days. Consequently, the appeal is dismissed as barred by limitation, without adjudicating the grounds of appeal on merits.

07. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on this 15th day of October, 2026.

Sd/-	**Sd/-**
[Dr. Arjun Lal Saini]	**[Shri Sonjoy Sarma]**
लेखा सदस्य/Accountant Member	**न्यायिक सदस्य/Judicial Member**

राजकोट/Rajkot
दिनांक/ Date: 15/10/2026

Copy of the order forwarded to :

1. The assessee
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, Rajkot
6. Guard File

By order

//True Copy//

Sr. Private Secretary
ITAT, Rajkot

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