

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH `G' NEW DELHI

BEFORE SHRI S.V. MEHROTRA, ACCOUNTANT MEMBER  
AND  
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

I.T.A.No.3555/Del/2009  
Assessment Year : 2002-03

SRF Limited, vs Addl. CIT,  
C-8, Commercial Complex, Range-9,  
Safdarjung Development Area, New Delhi.  
New Delhi-110016  
(PAN: AAACS0206P)  
(Appellant) (Respondent)

Appellant by: Shri Ajay Vohra, Senior Counsel  
Respondent by : Shri Ramesh Chander, CIT-DR

**ORDER**

**PER CHANDRA MOHAN GARG, JUDICIAL MEMBER**

This order would dispose of application of the appellant assessee for condonation of delay in filing the appeal.

2. We have heard arguments of both the sides on the issue of condonation of delay and carefully perused the relevant material placed on record. Ld. Assessee's counsel submitted that the CIT(A) passed an order on 30.3.2006 which was received by the assessee on 19.4.2006 partly allowing the appeal of the assessee and the assessee has filed this appeal on 11.8.2009 against the said order of the CIT(A) dated 30.3.2006. Ld. Counsel further submitted that as per provisions of section 253(3) of the

Income Tax Act, 1961 (for short the Act), the last date of filing the appeal expired on 17.06.2006 and, therefore, there is a delay of 1163 days in filing the present appeal by the assessee appellant. Ld. Counsel has drawn our attention towards affidavit of Shri Hemant Kumar Gupta, Manager Taxation of the assessee company sworn on 11.8.2009 and submissions in the present application for condonation of delay and submitted that there was sufficient cause for delay as per requirement of the Act. Ld. Counsel has drawn our attention towards relevant paras of the application in hand filed by the assessee for condonation of delay of 1163 days, which read as under:-

*“The order of the CIT(A) dated 30.03.2006 was received by some employee of the company in April, 2006 and the same was forwarded to the Taxation department of the company. At that time Mr. Suresh Chawla and Mr. Rohit Bhatla were working as AVP Taxation and Manager Taxation respectively.*

*Mr. Suresh Chawla and Mr. Rohit Bhatia left the organisation in October 2007 and January 2007 respectively. Recently, the new incumbent, Mr. Hemant Kumar Gupta who joined the company in February 2008, while culling out certain details/ information, in connection with the filing of appeal to CIT (A) against the order dt 23106/2009 levying penalty u/s 271(1)(c) in respect of assessment proceedings u/s 147 for the assessment year 2002-03 (Copy of the order also enclosed herewith), noticed that in one of the files, four copies of draft set of appeal documents for the assessment year 2002-03 were kept. After finding that acknowledgment of filing appeal for the assessment year 2002-03 was not there in the master file, Mr. Hemant enquired as to whether the appeal for the said assessment year was*

*actually filed before the Tribunal or not. On verifying the appeal documents, Mr. Hemant discovered that the relevant papers being inadvertently put in the wrong file, no appeal had been filed. An affidavit of the Mr. Hemant is attached herewith in support of the above averments.*

*It is in the aforesaid peculiar facts and circumstances that the delay in filing the appeal within the statutory period of 60 days from the receipt of the order passed by CIT(A) has occurred, which is neither wilful nor deliberate. Therefore, it is humbly urged that in view of the peculiar circumstances, delay in filing the appeal may kindly be condoned and the appeal may be taken up and decided on merits.”*

3. In support to above submissions, the assessee company has filed affidavit of Shri Hemant Kumar Gupta, Manager-Taxation sworn on 11.8.2009, which is being reproduced below for sake of clarity in our findings:-

*“ I, Hemant Kumar Gupta s/o Sh. Jai Kishan Gupta Rio 940, Sector 15 Part II, Gurgaon, do hereby solemnly declare and affirm as under:*

- 1. That I am working as Manager-Taxation with SRF LTD, C-8, Safdarjung Development Area, New Delhi.*
- 2. That I joined SRF Ltd on Feb 29th 2008.*
- 3. That I while culling out the details/information in connection with filing of appeal to CIT (A) against the order levying penalty in respect of assessment proceedings u/s 147 for assessment year 2002-03, found four sets of draft appeal documents for AY 2002-03.*

4. *That I on further enquiry found that the appeal for the above said AY 2002-03 had inadvertently not been filed.*

*DEPONENT ‘‘*

4. Ld. Counsel of the assessee also placed reliance on the decision of **Hon’ble Supreme Court in the case of Vedabai alias Vaijyanatabai Baburao Patil v. Shantaram Baburao Patil [2002] 253 ITR 798 (SC)** and earlier decision of **Hon’ble Supreme Court in the case of Collector, Land Acquisition vs MST. Katiji and Others (1987) 167 ITR 471 (SC)** and submitted that the court has to exercise discretion on the facts of each case keeping in mind that in construing the expression “sufficient cause”, the principle of advancing substantial justice is of prime importance and approach of courts should be pragmatic and should receive a liberal construction.

5. Replying to the above, ld. DR submitted that the assessee appellant is bound to explain delay of 1163 days, which is an extraordinary delay in filing of this appeal, on day-to-day basis. Ld. DR further pointed out that the assessee company cannot take shelter of negligence of its own senior officers working in the taxation department of the assessee company. Ld. DR placed reliance on the decision of **Hon’ble Supreme Court in the case of Chief Postmaster General and Others vs Living Media India Ltd.**

**And Another (2012) 348 ITR 7(SC) and in the case of Pundlik Jalam**

**Patil (dead) by LRS vs Executive Engineer, Jalgaon Medium Project**

**(2008) 17SCC 448** and submitted that when the conduct of the senior officers of the assessee and facts of the case clearly show the neglect of its own right for a long time in preferring appeals, then it is not expected from the judicial and quasi-judicial authorities to inquire into belated and stale claims on the ground of equity. The DR vehemently contended that the principle of equity as argued by the Id. Counsel of the assessee does not apply to tax proceedings and delay defeats equity.

6. Ld. DR also contended that the onus is on the assessee to establish and substantiate the day to day delay of 1163 days i.e. about three years, two months and eight days duration which has not been discharged by the assessee. Ld. DR also pointed out that admittedly, the assessee received copy of the order of the CIT(A) dated 30.3.2006 on 19.4.2006 and the last date of filing the appeal expired on 17.06.2006 which was actually filed on 11.8.2009 with a delay of 1163 days, hence, the assessee has to show “sufficient cause” for the said delay of filing appeal but the assessee has miserably failed to show “sufficient cause” for such extraordinary delay of 1163 days. Ld. DR strenuously contended that the cause shown by the assessee in the present application is not sufficient and affidavit of Shri Hemant Kumar Gupta only expresses that he (Shri Gupta) joined assessee

company as Manager-Taxation on 29.02.2008 but appeal was filed on 11.8.2009 i.e. after one year five months and 13 days for which no sufficient cause has been shown.

7. On careful consideration of above submissions and contentions of both the sides on the issue of condonation of delay, we observe that in the case of **Vedabai alias Vaijayanatabai Baburao Patil v. Shantaram Baburao Patil (supra)**, the Hon'ble Apex Court has held as under:-

*“In exercising discretion under section 5 of the Limitation Act the courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard. The court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression "sufficient cause", the principle of advancing substantial justice is of prime importance. In our view in this case, the approach of the learned civil judge is wholly erroneous and his order is unsustainable. It is evident that the discretion under section 5 of the Limitation Act is exercised by the civil judge in contravention of the law laid down by this court, that the expression "sufficient cause" should receive liberal construction, in a catena of decisions (see State of West Bengal v. Administrator, Howrah Municipality, AIR 1972 SC 749 ; [1972] 1 SCC 366 and Smt. Sandhya Rani Sarkar v. Smt. Sudha Rani Debi, AIR 1978 SC 537 ; [1978] 2 SCC 116). The High Court in exercising its jurisdiction under section 115 of the Civil Procedure*

*Code, failed to correct the jurisdictions error of the appellate court.”*

8. We further observe that in the case of Collector, Land Acquisition vs MST. Katiji and Others (supra), the Hon’ble Apex Court also interpreted the essence of provisions of section 5 of the Limitation Act, 1963 which is *para materia* to the provisions of section 253(5) of the Act. The relevant observations of Hon’ble Apex Court in this case read as under:-

*“The Legislature has conferred the power to condone delay by enacting section 5 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits”. The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which sub-serves the ends of justice that being the life purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy.”*

9. In the present case, admittedly, the appeal has been filed by delay of 1163 days and as per affidavit of Mr. Hemant Kumar Gupta, Manager-Taxation of the assessee company, we observe that he (Mr. Gupta) joined post of Manager-Taxation on 29.02.2009 and while culling out the details/information in connection with filing of appeal against the order of the CIT(A) levying penalty in respect of proceedings u/s 147 for AY 2002-03, he (Mr. Gupta) found four sets of draft appeal documents for AY 2002-

03. Ld. Senior counsel of the assessee has drawn our attention towards condonation application and submitted that these four sets of draft appeal were kept by his predecessors i.e. Mr. Suresh Chawla and Mr. Rohit Bhatla who were working as AVP Taxation and Manager Taxation respectively and left the assessee company in October 2007 and January 2007 respectively but the appeal could not be filed on time, therefore, delay was caused. The main contention of the assessee company is that there was a massive change in the taxation department and the new incumbent Mr. Hemant Kumar Gupta who joined the company in February 2008 while culling out details of filing of appeal against the penalty order noticed that in one of the files, four copies of draft set of appeal document for AY 2002-03 were kept and on further verification Mr. Gupta discovered that the relevant papers were inadvertently put in the wrong file and no appeal has been filed. Ld. Counsel of the assessee submitted that in the above peculiar facts and circumstances, the appeal could not be filed within the statutory period and delay was neither willful nor deliberate, therefore, the delay may kindly be condoned allowing the appellant assessee to prosecute its case on merits.

10. At this point it is pertinent to mention that the provisions of section 5 of the Limitation Act 1961 are *pari materia* to the provisions of section 253(5) of the Act as both the provisions stipulated that after expiry of

stipulated period of limitation as per provisions of the relevant Act, if the court is satisfied that there was a “sufficient cause” for non-presenting the case/appeal within prescribed period, then the appeal /case may be admitted for hearing on merits by condoning the delay. It is true that an order condoning the delay in filing the appeal is a discretionary one but it is also pertinent to note that if discretion has been exercised on the wrong principles by giving undue liberal approach which is not at all justice oriented, then the purpose of these provisions would be defeated and frustrated. We further hold that discretion should not be exercised in favour of a person who neglects his own rights, for a pretty long time, in preferring appeals and causes extraordinary delay without any sufficient cause.

11. In view of submissions and contentions of both the parties, at the outset, we respectfully take note of the decision of Hon’ble Apex Court in the case of Vedabai alias Vaijayantabai Naburao Patil vs Shantaram Baburao Patil (supra) wherein the delay of 7 days was condoned with following observations thus:-

*“The Supreme Court in the case of Vedabai Alias Vaijayanatabai Baburao Patil V. Shantaram Baburao Patil: 253 ITR 798 held that the Court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression 'sufficient cause', the principle of advancing substantial justice is of prime importance. The Court held that the expression "sufficient cause" should receive liberal construction.*

12. We also respectfully take note of decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition V. Mst. Katiji (supra) wherein the delay of four days in filing appeal has been condoned with following observations thus:"-

*"The Legislature has conferred the power to condone delay by enacting section 51 of the Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on de merits". The expression "sufficient cause" employed by the Legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose of the existence of the institution of courts. It is common knowledge that this court has been making a justifiably liberal approach in matters instituted in this court. But the message does not appear to have percolated down to all the other courts in the hierarchy." (emphasis supplied)*

*In the circumstances of the case, it is, therefore, respectfully prayed that the delay in filing the appeal may kindly be condoned and the appeal may be adjudicated on merits."*

13. Ld. DR contended that above decisions are related to condonation of delay of only 7 and 4 days respectively but in the present case there is an extraordinary delay of 1163 days and the assessee has not shown any "sufficient cause" as required by section 253(5) of the Act, thereby delay cannot be condoned. Ld. DR reiterated its reliance on the decisions of **Hon'ble Supreme Court in the case of Office of the Chief Postmaster**

**General and Others vs Living Media India Ltd. and Another (2012) 348**

**ITR 7 (SC)** and cautioned the judicial authorities that there is no need to accept the usual explanation that the file was kept pending for several months or years due to considerable degree of procedural red-tape in the process. The relevant observations are being respectfully reproduced which read thus:-

*“10) Before considering whether the reasons for justifying such a huge delay are acceptable or not, it is also useful to refer the decisions relied on by Mr. Soli J. Sorabjee, learned senior counsel for the respondents.*

*i) In Commissioner of Wealth Tax, Bombay vs. Amateur Riders Club, Bombay, 1994 Supp (2) SCC 603, there is a delay of 264 days in filing the SLP by the Commissioner of Wealth Tax, Bombay. The explanation for the delay had been set out in petitioner's own words as under:*

*".....2 (g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file.*

*(h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993."*

*After incorporating the above explanation, this Court refused to condone the delay by observing thus:*

*"3. ... .... Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the stereotyped affidavits making it susceptible to the criticism that the Revenue does not seem to attach any importance to the need for promptitude even where it affects its own interest.*

*[Emphasis supplied]*

*ii) In Pundlik Jalam Patil (dead) by LRS. vs. Executive Engineer, Jalgaon Medium Project and Another, (2008) 17 SC 448, the question was whether the respondent-Executive Engineer, Jalgaon Medium Project had shown sufficient cause to condone the delay of 1724 days in filing appeals before the High Court. In para 17, this Court held:*

*".....The evidence on record suggests neglect of its own right for long time in preferring appeals.*

*The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and "do not slumber over their rights".*

*After referring various earlier decisions, taking very lenient view in condoning the delay, particularly, on the part of the Government and Government Undertaking, this Court observed as under:-*

*"29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.*

*30. Public interest undoubtedly is a paramount consideration in exercising the courts' discretion wherever conferred upon it by the relevant statutes. Pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. Prompt and timely payment of compensation to the landlosers facilitating their rehabilitation/resettlement is equally an integral part of public policy. Public interest demands that the State or the beneficiary of acquisition, as the case may be, should not be allowed to indulge in any act to unsettle the settled legal rights accrued in law by resorting to avoidable litigation unless the claimants are guilty of*

*deriving benefit to which they are otherwise not entitled, in any fraudulent manner. One should not forget the basic fact that what is acquired is not the land but the livelihood of the landlosers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under Section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. It serves no public interest."*

*11) We have already extracted the reasons as mentioned in the "better affidavit" sworn by Mr. Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in LPA Nos. 418 and 1006 of 2007 as 11.09.2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 08.01.2010 and the same was received by the Department on the very same day. There is no explanation for not applying for certified copy of the impugned judgment on 11.09.2009 or at least within a reasonable time. The fact remains that the certified copy was applied only on 08.01.2010, i.e. after a period of nearly four months. In spite of affording another*

*opportunity to file better affidavit by placing adequate material, neither the Department nor the person in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.*

*12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.*

*Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack*

*of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes can not be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.*

*13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.*

*Accordingly, the appeals are liable to be dismissed on the ground of delay.”*

14. We further respectfully take note of the decision of Hon'ble Apex Court, as relied by the Revenue, in the case of Pundlik Jalam Patil (supra) wherein it was held that the evidence on record suggests neglect of its own right for a long time in preferring the appeals, then the settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay. The relevant operative paras 17 and 29 of this decision have been noticed and reproduced by Hon'ble Apex Court in its subsequent decision in the case of Office of the Chief Postmaster General and Others vs Living Media India Ltd. and Another (supra) as reproduced hereinabove in the earlier part of this order.

15. Turning to the facts and circumstances of the present case, at the outset, we note that admittedly there was a delay of 1163 days in filing the present appeal which ought to have been filed on or before 17.06.2006. The “sufficient cause” as stated by the assessee/applicant consists of mainly two limbs:-

- (i) Mr. Suresh Chawla the then AVP-Taxation and Mr. Rohit Bhatla the then Manager-Taxation left the company in October 2007 and January 2007 respectively.
- (ii) The new Manager Taxation Mr. Hemant Kumar Gupta joined

the company in February 2008 and he found the four sets of draft appeal while he was culling out certain details/information about filing of appeal to CIT(A) against the penalty order dated 23.6.2009. During this process Mr. Gupta discovered that the relevant papers were inadvertently put in the wrong file.

16. Ld. DR contended that the last date of filing appeal was 17.6.2006 and Mr. Suresh Chawla and Mr. Rohit Bhatla left the company subsequently in the month of October 2007 and January 2007 respectively and sufficient time had elapsed during their working period for which there is no “sufficient cause. Ld. DR also contended that when Mr. Hemant Gupta, (successor of Mr. Rohit Bhatla who left the company in January 2007) joined on 29.2.2008 and appeal was filed on 12.8.2009, then there is no “sufficient cause” for the period of 29.2.2008 to 12.8.2009 which is an extraordinary delay, therefore, the delay cannot be condoned. Ld. DR also contended that neither in the application of condonation of delay nor in the affidavit of Shri Hemant Kumar Gupta, there is any mention of the fact that on which date Mr. Gupta found draft sets of appeal. The DR also pointed out that decisions of Hon’ble Supreme Court as relied by the applicant are not applicable to the present case as there was a delay of a few days in these cases and the present case is squarely covered in favour of the cases of Chief

Post Master General vs Living Media Pvt. Ltd. (supra) and Pundlik Jalam Patil (Dead) by LRS vs Executive Engineer (supra).

17. Ld. Counsel for the assessee contended that assessee never gets any benefit by filing delayed appeal and appeals having merits should not be thrown away merely because there is some delay in filing the appeal and the appellant should be allowed to press its case on merits in the interest of justice and for the cause of justice.

18. On careful consideration of above contentions and submissions of both the sides, we are of the view that there is an extraordinary delay of 1163 days in filing this appeal for which assessee has to show “sufficient cause” but the cause shown by the assessee may be considered a “sufficient cause” for the intervening period when old officers left or parted with the company and till new Manager Taxation Mr. Hemant Gupta joined, meaning thereby from October 2007 to 29.2.2008, but we are unable to see any “sufficient cause” which could justify or properly explain the delay which occurred from last date of filing the appeal as per statutory provisions of the Act to departure of Shri Suresh Chawla – AVP – Taxation i.e. from 17.6.2006 to October 2007 and from joining of Mr. Hemant K. Gupta – Manager Taxation to the date of filing this appeal i.e. from 29.2.2008 to 12.8.2009. From impugned order of the CIT(A) dated 30.3.2006, we clearly observe

that Shri Suresh Chawla AVP (Taxation) of the company was present at the time of delivery of the order with Shri Satya Sethi, Advocate and Shri Harsh Singhal the representative of the assessee company which reveals that Shri Suresh Chawla was well aware about the impugned order from the date of the order i.e. from 30.3.2006, therefore, delay in filing appeal was not due to ignorance but the delay was caused due to languid and inane conduct of the assessee . We also note that the date on which Mr. Hemant Kumar Gupta found relevant papers in a file folder is neither mentioned in the application for condonation of delay nor in the affidavit of Mr. Gupta. Therefore, “sufficient cause” as shown by the assessee is not acceptable in the light of ratio of the decision of Hon’ble Apex Court in the case of Chief Postmaster General and Others vs Living Media India Ltd. and Another\_(supra) and Pundlik Jalam Patil (Dead) by LRS vs Executive Engineer (supra). In above facts and circumstances of the present case, we are of the considered opinion that if such kind of extraordinary delay is condoned without any sufficient cause, then the provisions of prescribed limitation period would become otiose and infructuous.

19. Thus, we respectfully hold that the benefit of the ratio of the decisions of Vedabai (supra) and Mst. Katiji (supra) is not available for the assessee. On the other hand, the decisions as relied by the Id. DR i.e. decisions of

Hon'ble Apex Court in the cases of Chief Postmaster General and Others vs Living Media India Ltd. and Another\_(supra) and Pundlik Jalam Patil (Dead) by LRS vs Executive Engineer (supra) are squarely applicable to the present case as the "sufficient case" shown by the assessee in the application for condonation of delay is neither supported by the affidavit of Mr. Hemant Kumar Gupta nor by the submissions and other contentions of the assessee. Therefore, we reach to a fortified conclusion that the assessee miserably failed in establishing and substantiating "sufficient cause", as required by the statutory provisions of the Act, for the extraordinary delay of 1163 days. Hence, present application for condonation of delay is dismissed.

Order pronounced in the open court on 13.11.2014.

Sd/-

(S.V. MEHROTRA)  
ACCOUNTANT MEMBER

DT. 13<sup>th</sup> NOVEMBER 2014  
'GS'

Copy forwarded to:-

1. Appellant
2. Respondent
3. Commissioner of Income Tax(A)
4. C.I.T. 5 DR

Sd/-

(CHANDRAMOHAN GARG)  
JUDICIAL MEMBER

By Order

Asstt.Registrar