IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

L APPLICATION NO.30/2017 IN INCOME TAX APPEAL STAMP NO.16389/2017

Rewashankar Pathak .Vs. Asstn. Commissioner of Income Tax, Central Circle-1, Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. R. D. Dawda, Advocate for applicant.
Mr. A. Parchure, Advocate for non applicant No.1.
Mrs. R. G. Bajaj, Advocate for non applicant Nos. 2 and 3.

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.
DATE : DECEMBER 19, 2025.

Heard.

2. By present application, the applicant is seeking to condone the delay of 4170 days in filing appeal from order dated 28.10.2005 passed by Income Tax Appellate Tribunal, Nagpur ("ITAT").

3. The reason for delay as assigned is that the applicant was employee of one Mr. Laxmikant Gupta. The applicant was residing in the outhouse in the factory premises. This residence, where applicant was residing, was owned by Mr. Gupta. The documents were found at his residence. The documents indicated that the applicant has extended loans to various persons. Assessing Officer found that the applicant had no means to give such loans. The ITAT, however, taking aid of Section 132 (4A), held that in terms of presumption under the said provision, the applicant had means to extend such loans. Accordingly, ITAT fixed liability upon the applicant. According to applicant, his employer was looking after the matter. Applicant was made to believe that the issue will be resolved. He signed documents as instructed by his employer and was not aware of the status of proceeding. He got to know of the result upon receiving demand notice in the year 2017. Accordingly, he inquired and approached this Court.

4. Mrs. R. G. Bajaj, learned counsel for non applicant Nos. 2 and 3 opposed the request for condonation of delay, contending that he participated in the proceeding and, therefore, should be aware of the result.

5. The revenue department is also aggrieved by judgment of ITAT. According to the revenue, the ITAT committed error in deleting additions of interest made by Assessing Officer.

6. Thus, the order which applicant intends to challenge has been already challenged by the Income Tax Department in the connected appeal being Income Tax Appeal No. 90/2006.

7. Considering the above and for the reasons set out in the application, we allow the application as prayed for. Accordingly, the delay is condoned. Appeal be registered and processed as per the rules.

8. The application is disposed of.

Income Tax Appeal Stamp No. 16389/2017

Heard.

2. The appeal is ***Admitted*** on the following substantial question of law.

> *"Is ITAT justified in confirming the order passed by Assessing Officer which is based on presumption under Section 132(4A) of the Income Tax Act, 1961, despite noting the fact that the appellant is incapable of doing any financial transaction as found in the seized documents?"*

3. Stand over after Christmas Vacation.

(JUDGE) **(JUDGE)**

Kahale