[3489]

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

I.A.No.2 of 2025
in/and
ITTA.No: 39 OF 2025

Appeal under Section 260A of Income Tax Act, 1961 against the order dated 26-09-2022 in ITA.No.27/HYD/2022 on the file of the Income Tax Appellate Tribunal, Hyderabad Benches "B" Hyderabad.

Between:

M/s Mandava Holdings Private Limited, Hyderabad D.No.8-2-684/2/ A, 4th Floor, Plot No.1 to 4, Road No.12, Banjara Hills, Hyderabad-500 034. Rep. By Director, Asha Priya Mandava

...Petitioner

AND

1. The Principal Commissioner of Income Tax (Central), Hyderabad, Aayakar Bhavan, Basheerbagh Hyderabad-500004.
2. The Deputy Commissioner of Income Tax- Central Circle 1(2) Hyderabad, Aayakar Bhavan, Basheerbagh, Hyderabad – 500004.

...Respondents

Respondent No 2 Formal Party in this Petition

IA NO: 2 OF 2025

Petition under Section 5 of Limitation Act praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 800 days in filing the above ITTA challenging the Order in ITA No.27/Hyd/2022, dated 26.09.2022 for A.Y.2017-18 on the file of Income Tax Appellate Tribunal and the appeal may be heard on merits and this Hon'ble Court.

Counsel for the Appellant: Sri P. Soma Shekar Reddy

Counsel for the Respondents: Sri N. Praveen Reddy
(Senior Standing Counsel for IT Department)

The Court made the following: COMMON ORDER

HON'BLE SRI JUSTICE P.SAM KOSHY

AND

HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

IA.No.2 of 2025

in/and

ITTA.No.39 of 2025

COMMON ORDER: *(Per the Hon'ble Sri Justice Suddala Chalapathi Rao)*

This application is filed to condone the delay of (800) days in filing the appeal against the order, dt.26.09.2022 in ITA.No.27/Hyd/2022 passed by the Income Tax Appellate Tribunal Hyderabad, Benches "B", Hyderabad (for short 'the Tribunal') for the assessment year 2017-18.

2. The reasons mentioned by the petitioner-Company in the affidavit filed in support of this application, is that a former employee of the appellant failed to inform about passing of the orders by the Tribunal and sending the said file to their Auditor, to his successor. That, only in the month of August, 2024, upon enquiry regarding the progress of the appeal, it came to light that the appeal papers were untraceable in the auditor's office, and subsequently, the

auditor informed that the papers had been inadvertently misplaced in his office and, therefore, could not be forwarded to the appellant for obtaining the signature of the authorized signatory, due to which, there is delay in filing of the appeal. It is further contended that the delay is neither willful nor wanton, but it had occurred due to the above stated facts and circumstances, and prayed to condone the delay in exercise of its powers under Section 5 of the Limitation Act, 1963.

3. The respondents/Revenue filed counter *inter alia* stating that the present application is filed with abnormal delay and no sufficient cause and reasons are mentioned, and that the explanation given by the petitioner/appellant, that a former employee, who was looking after the tax appeals, resigned without informing her successor as to the sending of appeal papers to the auditor and that the said papers were misplaced in the auditor's office, and only in the month of August, 2024, they could trace the appeal papers, is nothing but an afterthought, and the said reasons are routine and stock reasons.

4. It is further stated that the impugned order is a common order for the assessment years 2016-17 and 2017-18, and the petitioner/appellant having filed a writ petition *vide* WP.No.21770 of 2024 before this Court for the assessment year 2016-17, now cannot contend that the previous employee has not informed about the said file to the successor.

5. Learned counsel for the petitioner/appellant, while reiterating the averments in the affidavit filed in support of this application, placed reliance on the decision of the Hon'ble Supreme Court in ***Collector Land Acquisition, Anantnag and Others v. M/s Katiji & Others***[1] and prayed for condonation of delay in preferring the appeal.

6. Per contra, Sri N.Praveen Reddy, learned Senior Standing Counsel for Income Tax appearing for respondents submitted that the delay of (800) days sought to be condoned is inordinate and the reasons mentioned in the application

[1] 167 ITR 471 = (1987) 2 SCC 107

does not entitle the petitioner/appellant for condonation of such abnormal and inordinate delay.

7. As seen from the record, admittedly, the judgment in the underlying Income Tax Appeal was passed on 26.09.2022, and the present appeal was filed only on 11.03.2025 i.e., with a delay of almost (29) months and reasons mentioned in the affidavit filed in support of the application are not satisfactory for the reason that the petitioner/appellant having preferred a writ petition in respect of the assessment year 2016-17 against the common order passed for the assessment years 2016-17 and 2017-18, did not choose to file appeal for the assessment year 2017-18, within the prescribed period of time. As such, in our considered opinion, the petitioner/appellant has not shown any justifiable grounds for condoning the delay.

8. Further, the decision relied upon by the petitioner/appellant in ***Katiji***'s *case (supra)* is distinguishable, in the light of the decisions rendered by the

Apex Court in ***Pathapati Subba Reddy (Died) by Legal Representatives & Others v. Speciay Deputy Collector (LA)***[2] and ***Estate Officer, Haryana Urban Development Authority & Another v. Gopi Chand Atreja***[3].

9. In the ***Katiji****'s case (supra)*, the Hon'ble Supreme Court, on the principle of equality and fairness, held that no discrimination should be made merely because State is seeking condonation of delay. Contrary thereto, in ***Pathapati Subba Reddy (Died)****'s case(supra)*, the Apex Court held that condonation of delay cannot be granted on equitable considerations or on grounds of hardship, and that a right or remedy not exercised or availed within the prescribed period or for a prolonged period, must come to an end or cease to exist. Similarly, in ***Gopi Chand Atreja***'s case(supra), the Apex Court while observing that the appellant's officers in charge of legal cell, failed to discharge their duties promptly and with due diligence, despite availability of all facilities and

[2] (2024) 12 Supreme Court Cases 336
[3] (2019) 4 Supreme Court Cases 612

infrastructures, held that the delay was not sufficiently explained.

10. In view of the above judicial precedents of the Ho'ble Supreme Court, we are of the considered view that the petitioner/appellant has not made out any grounds for condoning the delay of (800) days in preferring the appeal, and thus, the interlocutory application is liable to be rejected.

11. Accordingly, the Interlocutory Application *vide* IA.No.2 of 2025 is dismissed. Consequently, the ITTA stands rejected.

As a sequel thereto, miscellaneous petitions pending, if any, shall stand dismissed.

SD/- N. SRIHARI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

One Fair Copy to the HON'BLE SRI JUSTICE P.SAM KOSHY
(For His Lordship's kind Perusal)

One Fair Copy to the HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO
(For His Lordship's kind Perusal)

To,

1. The Income Tax Appellate Tribunal, Hyderabad Benches "B" Hyderabad.
2. One CC to Sri P. Soma Shekar Reddy, Advocate [OPUC]
3. One CC to Sri N. Praveen Reddy (Senior Standing Counsel for IT Department) [OPUC]
4. 11 LR Copies
5. The Under Secretary, Union of India Ministry of Law, Justice and Company Affairs, New Delhi
6. The Secretary, Telangana Advocates Association Library, High Court for the State of Telangana, High Court Buildings at Hyderabad.
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HIGH COURT

DATED:30/10/2025

COMMON ORDER
I.A.No.2 of 2025
in/and
ITTA.No.39 of 2025

I.A.No.2 of 2025 IS DISMISSED &
ITTA STANDS REJECTED

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ASN
27/11/25