10.04.2026.
Item No. 6.
Court No. 13
ap

M.A.T. No. 2076 of 2025
With
I.A. No. CAN 1 of 2025
And
I.A. No. CAN 2 of 2025

Principal Commissioner of Income Tax-9, Kolkata
Versus
Kvell Properties Private Limited & Ors.

Mr. Amit Sharma,
Mr. Abhishek Kumar Agrahari.
…For the appellant.

Mr. Avra Mazumder,
Ms. Alisha Das,
Ms. Rupomita Ghosh.
…For the respondents.

Re: CAN 2 of 2025 (Condonation)

1. M.A.T. 2076 of 2025 is filed with a delay of what actually is 278 days although the appellant has calculated the delay to be 212 days.

2. It appears from the application for condonation of delay that there is explanation for whatever reasons of about 84 days. It also appears from the records that the impugned order was passed in 29th January, 2025 and the certified copy therefor was applied on 29th July, 2025.

3. Learned Counsel for the respondents has placed a decision of the Hon'ble Supreme Court of India in the case of ***Shivamma (Dead) by LRs. – Vs. – Karnataka Housing Board & Ors.*** reported in ***2025 SCC OnLine SC 1969***. In the said judgment, the past view of liberal interpretation of the expression 'sufficient cause' of

Section 5 of the Limitation Act, 1963 has been replaced with a view taken by the Hon'ble Supreme Court of India in the case of ***Postmaster General – Vs. – Living Media India Limited*** reported in ***(2012) 3 Supreme Court Cases 563***.

4. The view of the Hon'ble Supreme Court of India in Postmaster General (supra) was upheld and applied in ***Shivamma*** decision (supra) by the Hon'ble Supreme Court of India. It was specifically held from paragraph 190 onwards that there has been shift in jurisprudence on the principle of condonation of delay after the decision of the Hon'ble Supreme Court of India in the case of ***Postmaster General*** (supra).

5. It was held that the Government bodies and agencies and their instrumentalities need not be given any special limitation outside the scope of Section 5 of the Act of 1963.

6. The condonation has been held to be a matter of exception and cannot be treated as an anticipated privilege accruing to Governmental bodies. Even earlier view that a meritorious case would warrant a liberal approach for condonation of delay has been discarded completely. The Court went on finally to decide all aspects of public policy and extinguished the right pursuant to limitation expiring particularly in the context of Government bodies.

7. The sum and substance of the ***Shivamma*** decision (supra) is that the rigours of Section 5 and

the requirement of explanation of each day of delay must be strictly applied to the Government bodies as it is applied to private individuals and bodies.

8. Having regard to the above, this Court is of the view that the delay in filing the instant appeal has not been properly explained by the appellant/Principal Commissioner of Income Tax, Kolkata. CAN 2 of 2025 shall stand dismissed.

Re: M.A.T. 2076 of 2025

9. Consequently M.A.T. 2076 of 2025 is dismissed for being filed beyond limitation.

10. In view of dismissal of the appeal itself, the connected application being CAN 1 of 2025 is also dismissed.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)

(Rai Chattopadhyay, J.)