

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, AHMEDABAD**

**DR. B.R.R. KUMAR VICE PRESIDENT  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.523 and 798/AHD/2026  
(Assessment Year: 2018-2019 & 2019-2020)**

**Shree Nathubhai Sa Vjibhai Desai**

College of Education  
Shree NSD College of Education  
Near Siddhpur Char Rasta,  
Kheralu S.O Kheralu,  
Mehsana-384325, Gujarat  
[PAN:AABAS8192H]

..... **Appellant**

Vs

**Income Tax Officer, Ward 1**

Income Tax Department,  
Chinmay Corporate House,  
Patan-Deesa Highway,  
Patan-384265, Gujarat

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Sunil Talati  
Respondent/Department : Shri Ravindra, Sr. DR

**Date**

Conclusion of hearing : 09.06.2026  
Pronouncement of order : 22.06.2026

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. These are two appeals filed by the same Assessee for the Assessment Years 2018-2019 and 2019-2020. Since identical grounds were raised in both the appeal, the same were heard together and are being disposed off by way of a common order.

**ITA No.523/AHD/2026**

2. We would first take up ITA No.523/AHD/2026 pertaining to Assessment Year 2018-2019 preferred by the Assessee against the Order, dated 14/01/2026, passed by the National Faceless Appeal

Centre (NFAC), Delhi [hereinafter referred to as the '**CIT(A)**'] whereby the Learned CIT(A) had dismissed the appeal against the Assessment Order, dated 10/03/2023, passed under Section 147 read with Section 144 and 144B of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'] as barred by limitation.

3. The grounds raised by the Assessee read as under:

"1. *The learned CIT(A) erred in law in dismissing the appeal in limine for alleged non-filing of condonation petition, despite a request for condonation having been filed along with the submission and Rule 46A application. In view of the same, the impugned order is prayed to be quashed.*

*(Without Prejudice)*

2. *The learned CIT(A) failed to exercise jurisdiction under section 249(3) by not examining the sufficiency of cause for delay and by mechanically rejecting the appeal and the Rule 46A application, thereby denying a proper opportunity of hearing. In view of the same, the appellant may please be allowed to explain each fact afresh and be given a fair opportunity of being heard in the interest of justice.*

3. *That the learned CIT(A) erred in law and on facts in not adjudicating the appeal on merits and in dismissing the same merely on technical grounds, thereby causing grave prejudice to the appellant. In view of the same, the matter may please be set aside to CIT(A) with appropriate directions to consider the delay in appeal filing and condonation thereof."*

4. We have both the sides grievance highlighted by the Assessee is the that the Leaned CIT(A) had dismissed the appeal preferred by the Assessee against the assessment order for the Assessment Year 2018-2019 observing that the Assessee has not sought condonation of delay in filing appeal before the Learned CIT(A). It was submitted that the aforesaid observation made by the Learned CIT(A) was contrary to the material on record since the Assessee had filed, both, application for admission of additional evidences as well as application seeking condonation of delay before the Learned CIT(A). It was explained in the application that due to lack of proper guidance from the previous tax consultant /chartered accountant, the Assessee was unable to comply with the notices issued within the required time frame and got delayed

knowledge of the Assessment Order, 10/03/2023, having been passed. The lack of access to e-filing portal password and technical issues also delayed filing of appeal. The aforesaid explanation offered by the Assessee were completely ignored by the Learned CIT(A). It was further submitted that even on merits Assessee had good case since the Assessee was part of Kheralu Taluka Uttar Vibhag Kelavani Mandal Kheralu Taluka [for short '**Kheralu Trust**'] and the entire income added in the hands of the Assessee has already been offered to tax in the hands of the Kheralu Trust and accepted by the Revenue. Therefore, the additions made in the hands of the Assessee amounted to double taxation. In this regard reliance was also placed by the Learned Authorised Representative for the Assessee on the judgment of Hon'ble Gujarat High Court passed in batch of Special Civil Applications (including Special Civil Applications No. 20804 of 2017): Sardar Vallabhbhai Patel Education Society Vs. Income Tax Officer Ward-2 dated 19/04/2024 [reported in 446 ITR 278].

5. Per contra, the Learned Departmental Representative supported the order passed by the Learned CIT(A) and pointed out that in memorandum of appeal filed before the Learned CIT(A) the Assessee had stated that there was no delay in filing the appeal. Further, the Assessee had been non-compliant during the assessment proceedings and therefore, the Assessing Officer proceeded to make the addition based upon the material forming part of assessment record.
6. In rejoinder, the Learned Authorised Representative for the Assessee submitted that the Assessee was under bonafide belief that since the income was already offered to tax in the hands of the Kheralu Trust, no further compliance was required. The Assessee also did not receive proper legal advice in this regard from the previous tax consultant. This also resulted in delay in filing appeal before the Learned CIT(A). It was reiterated that the Assessee had a goods case on merits and that the application moved by the Assessee for admission of additional evidence was not considered by the Learned CIT(A) since the appeal was

dismissed as being barred by limitation.

7. We have given thoughtful consideration to the rival submissions and have perused the material on record.
8. Perusal of records shows that while in the memorandum of appeal the Assessee had stated that there was no delay in filing the appeal, the Assessee had filed application seeking condonation of delay as well as application for admission of additional evidences before the Learned CIT(A) [*placed at pages 13-18 in the paper-book filed by the Assessee*]. The affidavit in support of prayer seeking condonation of delay was executed on 20/03/2025, much before the appeal preferred by the Assessee came to be dismissed vide Order, dated 14/01/2026, passed by the Learned CIT(A). We find that on account of lack of proper legal advice received from the previous tax consultant, the Assessee was of bonafide belief that since the receipts have been accounted for and offered to tax by the Kheralu Trust, no further compliance was required on behalf of the Assessee. The previous tax consultant engaged by the Assessee neither made proper representation before the Assessing Officer nor kept the Assessee informed about the assessment proceedings. The Assessee came to know of the Assessment Order having been passed subsequently (after the penalty order under Section 271 AAC(1) of the Act passed on 18/09/2023). It has been stated in the affidavit that obtaining the access to the online filing portal also took some time. In the aforesaid facts and circumstances the filing of the appeal before the Learned CIT(A) was delayed by 388 days. While the Learned Departmental Representative supported the order passed by the Learned CIT(A), the Learned Departmental Representative could not controverted the fact that the Learned CIT(A) had proceeded to dismiss the appeal on incorrect understanding that the Assessee had not filed seeking application of condonation of delay.
9. In the case of **Collector of Land Acquisition Vs. Mst. Katiji & Others : AIR 1987 1353 (SC)** the Hon'ble Supreme Court has, while

dealing with the issue of condonation of delay, emphasized that substantial justice should prevail over technical considerations. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold. As against this, when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties. In the present case the Assessee has provided sufficient explanation for delay in filing the appeal before the Tribunal. In our view, no benefit would have accrued to the Assessee by delaying filing of appeal. When substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred. Keeping in view the aforesaid judgment of the Hon'ble Supreme Court we hold that in the present case Assessee was prevented by reasonable cause from filing appeal before the Learned CIT(A) within the prescribed time and the Learned CIT(A) moved on incorrect understanding of facts to dismiss the appeal filed by the Assessee observing that the Assessee has not sought condonation delay without confronting the Assessee. Given the aforesaid, the impugned Order passed by the Learned CIT(A) dismissing the appeal as being barred by limitation cannot be sustained and is set-aside; the delay of 388 days in filing the appeal before the Learned CIT(A) is condoned and the Learned CIT(A) is directed to adjudicate the appeal on merits after taking into consideration the application for admission of additional evidence filed by the Assessee. The Assessee is directed to bring on record correct email address and physical address for communications from the Learned CIT(A) and track the appellate proceedings through Income Tax Business Application (ITBA) Portal. In terms of the aforesaid, the Ground No. 1, 2 and 3 raised by the Assessee are partly allowed. It is clarified that since we have restored the issue back to the file of the Learned CIT(A) without returning any findings on merits, all the rights and contentions of the Assessee are left open. The Learned CIT(A) would also be at liberty to adjudicate the grounds raised by the Assessee in appeal before the Learned CIT(A) as per law after granting the Assessee a reasonable opportunity of being heard.

10. In result, the present appeal preferred by the Assessee for the Assessment Year 2018-2019 is partly allowed.

**ITA No.798/AHD/2026**

11. We would first take up ITA No.798/AHD/2026 pertaining to Assessment Year 2019-2020 preferred by the Assessee against the Order, dated 13/02/2026, whereby the Learned CIT(A) had dismissed the appeal against the Assessment Order, dated 07/03/2024, passed under Section 147 read with Section 144 of the Act as barred by limitation.
12. During the hearing both sides had agreed that in facts and circumstances identical to those prevailing in Assessment Year 2018-2019, the Learned CIT(A) had declined to condone the delay of 18 days in filing appeal observing that application seeking condonation of delay was filed. Therefore, our finding and adjudication in appeal for the Assessment Year 2018-2019 shall apply mutatis mutandis to the present appeal for the Assessment Year 2019-2020. We note that the Learned CIT(A) proceeded to dismiss that appeal without confronting the assessee about the delay. In any case, in view of the explanation offered by the Assessee regarding lack of proper legal advice the delay of 18 days cannot be regarded as inordinate. Therefore, keeping in view the above judgment of the Hon'ble Supreme Court in the case of **Collector of Land Acquisition Vs. Mst. Katiji & Others (supra)** we hold that the impugned order passed by the Learned CIT(A) dismissing the appeal preferred by the Assessee for the Assessment Year 2019-2020 as being barred by limitation cannot be sustained and is hereby set-aside; the delay of 18 days in filing the appeal before the Learned CIT(A) is condoned and the Learned CIT(A) is directed to adjudicate the grounds raised by the Assessee in appeal before the Learned CIT(A) afresh. The Assessee is directed to bring on record correct email address and physical address for communications from the Learned CIT(A) and track the appellate proceedings through Income Tax Business Application (ITBA) Portal. In terms of the aforesaid, the Ground No. 1, 2 and 3 raised by the Assessee are partly-allowed. It is

clarified that since we have restored the issue back to the file of the Learned CIT(A) without returning any findings on merits, all the rights and contentions of the Assessee are left open. The Learned CIT(A) would also be at liberty to adjudicate the grounds raised by the Assessee in appeal before the Learned CIT(A) as per law after granting the Assessee a reasonable opportunity of being heard.

13. In result, the present appeal preferred by the Assessee for the Assessment Year 2019-2020 is partly allowed.
14. In conclusion, both appeals preferred by the Assessee are partly allowed.

Pronounced on 22.06.2026

**Sd/-**  
**(Dr. B.R.R. Kumar)**  
**Vice President**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

दिनांक Dated : 22.06.2026  
अहमदाबाद Ahmedabad;  
H.C. PS

**True Copy**

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल /Guard file.

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उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad