IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

Present:

The Hon'ble Justice Rajarshi Bharadwaj
And
The Hon'ble Justice Sudip Deb

ITA No. 51 of 2026

GA 1 of 2026

GA 2 of 2026
Principal Commissioner of Income Tax-1, Kolkata
-Vs-
M/s Pricewaterhouse Coopers Private Limited

For the Appellant	: Mr. Soumen Bhattacharya Mr. Ankan Das Mr. Raunak Seal
For the Respondent	: Mr. J.P. Khaitan, Sr. Adv. Mr. Pratyush Jhunjhunwala Ms. Sakshi Singhi
Heard on	: 07.09.2026
Judgment on	: 11.09.2026

<u>Sudip Deb, J.:-</u>

1. This instant application has been filed by the appellant seeking condonation of delay of 1480 days in preferring the instant appeal. The parties have filed their respective affidavit.

2. We have also heard the parties.

3. The Learned Advocate appearing for the appellant submitted that there are sufficient grounds for condoning the delay and accordingly prayer has been made to condone the delay and allow the instant application.

4. The Learned Senior Counsel for the respondent vehemently opposed such prayer and contended that no ground has been made out for condoning such inordinate delay of 1480 days.
5. According to the Learned Senior Counsel for the respondent, even after taking into consideration of the Apex Court's order, suo motu extending the period of limitation during Covid pandemic, there is a delay of 1116 days in preferring the instant appeal and no proper explanation has been given which can be said to be sufficient cause for not preferring the appeal in time. Accordingly, prayer has been made to dismiss the instant application as well as the instant appeal on this ground.
6. We have gone through the averments made in the instant application, the affidavit in-opposition and the affidavit in-rely filed by the parties in this regard.
7. What we found from the application, the appellant has stated that the appellant had received the impugned order on 29th July, 2021. It was further stated in the instant application that for a considerable period of time, i.e., from 31st August, 2021 to 6th February, 2022 because of Covid pandemic the department was not functioning properly and it was not possible for the department to prepare the instant appeal without proper instruction.
8. It was further stated that during that period, i.e., from 31st August, 2021 to 6th February, 2022, the period of limitation should be exempted because of the Apex Court's order, suo motu extending the period of limitation.
9. It was further stated that on and from 7th February, 2022 to 18th April, 2024 certain restrictions were created because of such the appellant could not

prepare the instant appeal. It was also stated that there were voluminous records lying at different floors of the office of the appellant and it was not possible for the appellant to immediately track all the records pertaining to the instant matter. It was stated that since the appellant's office had to handle many matters at the same time, further delay had been caused.

10. What it appears from the averments made in the application that the principle ground of delay was, since appellant's office/department was handling so many cases at the same time, it was not possible for the appellant to make the instant appeal ready.

11. It also appears from the averments made in the said application that the appellant had shifted the entire burden of delay in not preferring the appeal within time on the office who was handling the matter.

12. A case sought to be made out that since the concerned office was overburdened in handling many time barred matters as well as other matters and was busy in sending the affidavits in respect of other cases, the appellant could not make the instant appeal ready in time.

13. We have found after going through the averments made in the application as well as in the affidavits that even after permitting the appellant to take the benefit of the Apex Court's order, suo motu extending the period of limitation, there is a huge delay of 1116 days. What appears to us that the appellant has deliberately shifted the burden on the department for not making the appeal ready in time.

14. This explanation offered to us by the appellant cannot be a ground for condoning such inordinate delay of 1480 days. Apart from making a bald

assertion that the department was on tremendous pressure in handling so many matters, no case has been made out for which we can exercise our discretion to condone delay.

15. This apart, what we found from the averments, the memorandum of appeal, stay petition and the condonation of delay application were finalized and forwarded to the advocate concerned who was handling the matter on September 24, 2025, yet the instant appeal was admittedly filed on 15th December, 2025. What prevented the appellant to file the appeal during this period has also not been stated anywhere in the application for condonation of delay. The story which the appellant created cannot be believed.

16. It is evident from the acts and conduct of the appellant, that appellant has not shown due diligence in pursuing the matter. The bona fides of the appellant so far as pursuing this appeal are questionable and the explanation offered to the Court is not acceptable to us.

17. Section 260A(2)(a) of the Income Tax Act, 1961 contemplates that the appeal shall be filed within one hundred twenty days from the date on which the order appealed against is received by the assessee or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. Section (2A) of Section 260A also contemplates that the High Court may admit an appeal after the expiry of the period of one hundred and twenty days referred to in clause (a) of Sub-Section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.

18. What is important here is to see whether the appellant had "sufficient cause" in not preferring the appeal within the time limit as contemplated in Section 260A.

19. The law is well settled in this regard.

20. The words "sufficient cause" should receive a liberal construction so as to advance substantial justice when no negligence nor inaction, nor want of bona fides, is imputed to the applicant.

21. The Apex Court in ***Shivamma (Dead) By LRS vs. Karnataka Housing Board & Ors. 2025 INSC 1104*** observed that while there is no arithmetical formula, through decades of judicial application, certain yardsticks for judging the sufficiency of cause for condonation of delay have evolved. Mere good cause is not sufficient enough to turn back the clock and allow resuscitation of a claim otherwise barred by delay. The Court ought to be cautious while undertaking such an exercise, being circumspect against condoning delay which is attributable to the applicant. Although the actual period of delay might be instructive, it is the explanation for the delay which would be the decisive factor.

22. The Apex Court in ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors. (2013) 12 SCC 649*** summarized the principles as to what is meant by "sufficient cause", which is quoted hereunder:-

> *"21. From the aforesaid authorities the principles that can broadly be culled out are:*
> *21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation*

of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.

21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.

21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."

23. What it appears that the Apex Court in ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors. (supra)*** has categorically held that lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant factor. The negligence on the part of the litigant is also an important factor which is to be taken note of. The conduct, behavior and attitude of a party relating to its inaction or negligence are also relevant factors to be taken into consideration in this regard. If the explanation offered is concocted or the grounds urged in the application are fanciful, the Courts should be vigilant not to expose the other side unnecessarily to face such a litigation. It is so as the fundamental principle is that the Courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach. It is also important to consider as held by the Apex Court in the said decision of ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors. (supra),*** that there is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the later it may not be attracted. That apart, the first one warrants strict approach whereas the second one calls for a liberal delineation.

24. In the instant case, the appellant is unable to satisfy us on its bona fide so far as not approaching this Court in time. That apart, no due diligence has been shown by the appellant in pursuing the matter. The explanation offered by the appellant is questionable and not acceptable to us. In fact, according

to us this is not an explanation but mere excuse for not filing the appeal within time. We found that the conduct of the appellant is utterly lethargic, tardy and indolent so far as filing the instant appeal before this Court.

25. Hence, we are also unable to accept the explanation offered by the appellant as sufficient cause for not preferring the appeal in time. A Litigant whose approach is very lackadaisical has to suffer. Condonation of delay cannot be claimed as a matter of right, it is entirely the discretion of the Court as to whether the delay will be condoned or not.

26. Considering the present facts and circumstances of the case, we are unable to use the discretion in favour of the appellant.

27. In view of the aforesaid, we dismiss the applicant's application for condonation of delay. Accordingly, GA 1 of 2026 stands dismissed.

28. Since we have dismissed the application for condonation of delay, as an obvious consequence thereof, the instant appeal is also dismissed as time barred.

29. There will be no order as to costs.

30. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the all necessary formalities.

I Agree.

(Rajarshi Bharadwaj, J.) **(Sudip Deb, J.)**