



BOM HC: Sufficient Cause' Includes Ordinary Departmental Approval Delays, Holds Bombay HC While Condoning 156-Day Delay In Revenue's Section 260A Appeal

Brief Facts:

The Revenue sought to challenge an ITAT order dated 26th February 2024 by way of an appeal under Section 260A of the Income Tax Act, 1961 before the Bombay High Court, but the appeal came to be filed only on 10th February 2025 156 days after the limitation period had expired on 4th September 2024. The delay, as explained in the accompanying Interim Application, arose from the sequence of internal steps that preceded filing: the ITAT order reached the Office of the Commissioner of Income Tax (International Taxation) on 10th May 2024; a scrutiny report was called for and submitted to the Chief Commissioner of Income Tax, Mumbai on 30th August 2024; after clarifications were obtained, the CCIT directed that the appeal be filed vide letter dated 30th September 2024; the case papers were then sent to panel counsel, with drafting completed by 30th December 2024; the settled appeal memo was received back by the Commissioner on 14th January 2025; and approval of the competent authority, together with finalisation of the memo, followed on 22nd January 2025, ahead of the appeal being filed on 10th February 2025. Contending that this chain of events constituted a bona fide, non-deliberate delay, the Revenue moved Interim Application No. 4263 of 2025 seeking condonation under Section 5 of the Limitation Act as applied to Section 260A proceedings. The Assessee resisted the application by affidavit-in-reply.

Applicant/Revenue's Contention:

The Revenue submitted that none of the delay was intentional or willful, and that it flowed entirely from the internal procedural chain obtaining a scrutiny report, securing CCIT approval, briefing panel counsel, and finalising the appeal memo that any departmental appeal of this nature necessarily has to pass through. It was urged that dismissing the application would cause serious prejudice to the Revenue, whereas condonation would occasion no corresponding prejudice to the Assessee. To support a liberal approach toward governmental delay, the Revenue placed before the Court a body of Supreme Court and High Court precedent, including *State of Odisha v. Saroj Kumar Pradhan*, *Sheo Raj Singh v. Union of India*, *Raheem Shah v. Govind Singh*, *Huchanagouda v. Assistant Commissioner and Land Acquisition Officer*, *Hemlata Verma v. ICICI Prudential Life Insurance Co. Ltd.*, *State of Nagaland v. Lipok AO*, *State of Haryana v. Chandra Mani, Special Tahsildar, Land Acquisition, Kerala v. K.V. Ayisumma*, *G. Ramegowda v. Special Land Acquisition Officer, Bangalore*, *N. Balakrishnan v. M. Krishnamurthy*, and *Collector, Land Acquisition, Anantnag v. Mst. Katiji* each emphasising that courts ought to adopt a pragmatic, justice-oriented approach rather than a hyper-technical one when the State's delay stems from impersonal administrative machinery.

**Respondent/Assessee's Contention:**

The Assessee opposed condonation on the ground that the Revenue's explanation did not amount to sufficient or cogent cause, describing the 156-day delay as an abject failure to meet the limitation period prescribed under Section 260A, which had run out on 4th September 2024. It was argued that the internal timeline set out by the Revenue, when tested against CBDT Instruction No. 7 of 2011 dated 24th May 2011 which lays down a step-wise standard operating procedure, including the schedule at paragraph 4.1(f), for filing appeals before jurisdictional High Courts under Section 260A did not justify the delay at each stage. The Assessee further contended that the law of limitation binds the State on the same footing as any private litigant, and that departmental status alone cannot excuse an unexplained delay, relying on *Basawaraj v. Special Land Acquisition Officer and Office of the Chief Postmaster General v. Living Media India Ltd.* Finally, pointing to blank spaces in the application that had evidently been filled in by hand at a later stage, the Assessee argued that this betrayed a cyclostyled, stereotyped proforma rather than a genuine explanation, drawing support from the Division Bench ruling in *Ornate Traders Pvt. Ltd. v. Income-tax Officer* and the Supreme Court's refusal to condone delay on similar facts in *Principal Commissioner of Income Tax-2 v. Bank of Baroda*.

Citation:

Interim Application No. 4263 of 2025 in Income Tax Appeal (L) No. 4410 of 2025 / TS-1289-HC-2026(BOM)

Conclusion:

The Division Bench of Justice G.S. Kulkarni and Justice Dr. Neela Gokhale allowed the Revenue's application and condoned the delay in full. The Court began by reiterating the settled position under Section 5 of the Limitation Act that what matters is not the length of delay but whether sufficient cause has been shown, and observed that a delay of 156 days could not be regarded as extremely gross. Drawing on *Saroj Kumar Pradhan* where a 162-day delay attributable to a file moving between desks was condoned as administrative delay and on *Sheo Raj Singh's* extensive survey of precedent counselling a liberal, pragmatic and justice-oriented approach wherever governmental decision-making is involved, the Bench held that courts must make allowance for the impersonal nature of bureaucratic machinery, including the movement of files and the securing of approvals, without thereby creating a special or preferential standard for the State. It found that the Revenue's account of events had not been shown to be false, and that the explanation was bona fide. On the Assessee's stereotyped-application argument, the Court held that filling in verified dates by hand after cross-checking the record is a common and unremarkable drafting practice followed even by private litigants, and does not, by itself, reduce an otherwise substantive explanation to a mechanical proforma distinguishing the facts from those before the Supreme Court in the *Bank of Baroda* matter. Accordingly, the Interim Application was allowed, the 156-day delay was condoned, and the Registry was directed to number the appeal within three weeks after removal of office objections and list it for admission, with no order as to costs.