आयकर अपीलीय अधिकरण, बेंगलुरू पीठें, बेंगलुरू
INCOME TAX APPELLATE TRIBUNAL,
BANGALORE BENCHES, BANGALORE
BENCH: SMC

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

<table>
<tr><td colspan="3">ITA No. 1592/Bang/2026
निर्धारण वर्ष/Assessment Year: 2017-18)</td></tr>
<tr><td>M/s. Hibiscus Hospitality Services,
No.4, Mamtha Basement, 3rd Cross,
4thMain, Gandhinagar,
Bangalore- 560 009,
Karnataka.</td><td rowspan="2">Vs.</td><td>The Income Tax Officer,
Ward 5(2)(1),
Bangalore.</td></tr>
<tr><td>अपीलार्थी Appellant</td><td>प्रत्यर्थी Respondent</td></tr>
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<tr><td colspan="2">Permanent Account Number of Assessee:</td><td>AAJFH5165L</td></tr>
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<tr><td colspan="2">अपीलार्थी द्वारा/Appellant represented by:</td><td>Shri S. Ravishankar, Advocate</td></tr>
<tr><td colspan="2">प्रत्यर्थी द्वारा/Respondent represented by:</td><td>Shri. Ganesh R Ghale, Standing Counsel for the Dept.</td></tr>
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सुनवाई की तारीख / Date of conclusion of hearing:	**08-06-2026**
घोषणा की तारीख / Date of pronouncement:	**04-08-2026**

आदेश / ORDER

PER SHRI SOUNDARARAJAN K., JUDICIAL MEMBER:

This is an appeal filed by the assessee challenging the order of the Ld.Addl/JCIT(A)-3, Ahmedabad dated 10/02/2026 in respect of the A.Y. 2017-18.

2. The brief facts of the case are that the assessee is a firm and in the field of hospitality services to hotels. The return of income u/s. 139(4) was filed on 20/03/2018. The said return was processed and an intimation u/s. 143(1) was made on 07/08/2018 in which the CPC had made an addition of Rs. 18,20,373/- under the head income from house property.

3. As against the said intimation, the assessee filed an appeal before the Ld.CIT(A) with a delay of 78 months. The assessee also filed an application to condone the said delay. In the said application, the assessee had explained the reasons for the dely. The Ld.CIT(A) not satisfied with the reasons, had dismissed the appeal on the ground of limitation.

4. As against the said order, the present appeal has been filed by the assessee.

5. At the time of hearing, the Ld.AR brought to our notice about the various circumstances under which the delay was happened and submitted that therefore there is sufficient cause available to condone the delay. The Ld.AR further submitted that the assessee had included all the incomes as business income under presumptive taxation and therefore the addition made by the AO amounts to double taxation which is against the provisions of law. The Ld.AR further submitted that, if the delay has not been condoned, it would amounts to approving the double taxation. The Ld.AR also took us through the delay condonation application and prayed to set aside the orders of the lower authorities.

6. The Ld.DR on the other hand, submitted that the CPC had made the addition based on the details available and the Ld.CIT(A) had not condoned the huge delay and prayed to dismiss the appeal.

7. We have heard the arguments of both sides and perused the materials available on record.

8. In this appeal, we have to decide about the order of the Ld.CIT(A) in which the delay has not been condoned. For the sake of easy reference, we are extracting the delay condonation application filed by the assessee before the Ld.CIT(A).

APPLICATION FOR CONDONATION OF DELAY

Brief History:

1. The appellant is a partnership firm engaged in the business of supplying furniture and cutlery equipment on hire. The appellant filed its return of income for the assessment year 2017-18 on 20.03.2018 vide acknowledgment No. 467468630200318 declaring taxable income of Rs.2,68,336/-. The appellant offered business receipts of Rs.28,36,269/- under presumptive taxation and arrived at business profit of Rs.2,68,336/-.

2. The appellant submits that its customers deduct TDS under section 194C/194 I(a) of the Act at the time of making payment by virtue of the contract entered with them and accordingly the appellant offers such receipts to tax under the head 'Profit and gains from business or profession".

3. The appellant submits that during the year, two of its customers M/s Indian Hotels Company Limited and M/s The Indian Hotel Company Ltd has deducted TDS under section 194I(b) of the Act, which has also been considered by the appellant in the business income offered to tax.

4. The CPC issued a proposal for adjustment on 06.06.2018 stating that house property income of Rs.18,20,373/-appearing in 26AS is not been considered in the return of income filed by the appellant and accordingly the impugned intimation was passed on 07.08.2018 wherein the income was assessed at Rs.20,88,710/- after making addition of Rs.18,20,373/- under the head 'income from house property' to the returned income of Rs.2,68,336/-.

5. The appellant on receipt of the proposal dt:06.06.2018 filed a letter to the learned Income Tax Officer, Ward 4(2)(1), Banglaore on 08.08.2018 stating that the proposed addition is being made on account of TDS deducted under section 1941(b) by M/s Indian Hotel Company Limited and M/s. The Indian Hotel Company Ltd, which is incorrect.

6. The appellant submitted that it has not rented any land or building to the payees and thus, the assessment of hire charges received for furniture and cutlery under the head 'income from house property' is not justified

7. The appellant once again filed a letter with the assessing officer on 17.05.2019 reiterating the earlier submissions. The appellant was in regular follow up with the assessing officer and it was later informed to file rectification request under section 154 of the Act as the assessing officer could not assist in the matter and the rectification rights was with the CPC and was not yet transferred to the assessing officer.

8. The appellant filed rectification request on 10.12.2020 and 22.01.2021, however, intimation order were passed 22.12.2020 and 04.02.2021 respectively stating that there is inconsistency between House Property Income in return and form 26AS.

9. Since, the rectification processing communication was received during the period of COVID and the Chartered Accountants office was not functioning fully and there were restriction on movements, it was not possible to take immediate steps for further action.

10. Thereafter, a letter was filed 04.04.2022 before the assessing officer stating that the income is correctly offered and the intimation adjusting the income is incorrect.

11. The appellant received a communication dt:22.04.2022 from CPC stating that the return of income for the AY 2017-18 shall be rectified by the assessing officer.

12. The appellant raised a grievance on 16.08.2023 vide acknowledgment No. 13538902 requesting to pass necessary rectification order. The appellant received a resolution on 01.11.2023 suggesting to approach The Indian Hotels Company to file revised TDS statement correcting the section under which TDS is to be made.

13. The appellant thereafter approached the deductor requesting to correct the section under which TDS is to be made. However, the appellant was not successful in its approach.

14. The appellant also approached the assessing officer requesting to pass rectification orders as the deductors were not paying ears to the appellant's request for TDS correction.

15. The appellant filed a letter on 09.10.2024 and 22.10.2024 stating that the adjustment made was unwarranted and the TDS was deducted under an incorrect section. However, the appellant did not receive any communication from the department.

16. The appellant was advised to obtain a second opinion from the present counsel. The present counsel sought for documents and suggested to Me an appeal against the 143(1) intimation and accordingly the appeal came to be filed before your Honours 01118.03.2025.

17. It is humbly prayed that your Honours takes a lenient and compassionate view and condone the delay as per the above calculation in filing the present appeal against the assessment orders and hear the same on merits for the advancement of substantial cause of justice.

18. The appellant places reliance on the decision of the Hon'ble Jurisdictional High Court in the case of CIT & Another Vs. ISRO Satellite Centre, in ITA No. 532 of 2008 and other batch of appeal order dated 28/30/2033 has

condoned the delay of 5 years in filing the appeal before the CIT(A], the relevant observation is at para 28 page 72 of the order.

19. The appellant places reliance on the decision of the Hon'ble Bangalore Tribunal in the case of Smt. Shakuntala Hegde, Legal Heir of Mr. Ramakrishna Hegde Vs. ACIT, in ITA No. 2785/ Bang/2004 order dated 25/04/2006 wherein the Hon'ble Tribunal has condoned the delay of 1,331 days i.e. 3 Years, 8 Months and 22 days in filing the appeal by the assessee.

20. The appellant places reliance on the decision of the Hon'ble High Court of Madras in the case of Commissioner of Income-tax Vs. K.S.P.Shanmugavel Nadar (1987) 3o **Taxman 133** (Madras).

21. The appellant places reliance on the decision of the Hon'ble Cochin Tribunal in the case of M/s. Midas Polymer Compounds Pvt Ltd Vs. ACIT in ITA No.288/Coch/2017 dated 25.06.2018.

22. The appellant places reliance on the decision of the Hon'ble High Court of Bombay in the case of Anatek Services Pvt Ltd Vs. Asst.Commissioner of Income-tax-10W in ITA No.102 of 2018 dated 11.02.2022.

23. It is humbly submitted that if this application for condonation of delay in filing the appeal is not allowed, the Appellant would be put to great hardship and irreparable injury per contra no hardship or injury would be caused to the Respondent if this application of Condonation of delay is allowed. Reliance is placed on the decision of the Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST.Katiji and Others (1987) 167 ITR 471 and also in the case of Concord of India Insurance Co. Ltd., Vs Smt. Nirmala Devi and Others 118 ITR 507. Further the Appellant relies on another decision of the Hon'ble Apex Court in the case of Radha Krishna Rai Vs. Allahabad Bank & Others (2000] 9 Supreme Court Cases 733 and Commissioner of Income-tax Vs. West Bengal Infrastructure Development Finance Corporation limited (2011) 334 ITR 269 (SC).

24. The appellant craves leave of your Honours to file additional submission at the time of hearing of this appeal.

25. It is humbly prayed that your Honours is empowered under section 249(3) of the Act to condone the delay and it further requested that your Honour takes a lenient and compassionate view and condone the delay in filing the present appeal and hear the same on merits for the advancement of substantial cause of justice.

9. In spite of such a detailed explanation offered by the assessee, the Ld.CIT(A) had observed that the assessee has not cited any reasons supported by documentary evidences and therefore he has not condoned the delay as inordinate delay. We have perused the application filed by the assessee. In the said application, the assessee almost explained each every day delay. We don't think that there is no sufficient cause for the delay.

10. Further the contention of the assessee is that the said income was already offered under the presumptive taxation. But the said contention was not offered before the CPC and the Ld.CIT(A) has no occasion to consider the same since the appeal was dismissed on the ground of limitation. Therefore, in the interest of justice, we are inclined to grant one more opportunity to the assessee and therefore we are setting aside the order of the Ld.CIT(A) after condoning the delay and remitted this issue to the file of the AO for fresh consideration.

11. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 04th August, 2026.

Sd/-	**Sd/-**
WASEEM AHMED	**SOUNDARARAJAN K.**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Bangalore,
Dated: 04th August, 2026.

Copy to:

1	M/s. Hibiscus Hospitality Services, No.4, Mamtha Basement, 3rd Cross, 4thMain, Gandhinagar, Bangalore- 560 009, Karnataka.
2	The Income Tax Officer, Ward 5(2)(1), BMTC Building, Koramangala, Bangalore -560095, Karnataka.
3	The PCIT / CIT,
4	The D.R., ITAT, Bangalore Bench

BY ORDER

ASSISTANT REGISTRAR,
I.T.A.T., BANGALORE.