

No condonation of delay if assessee failed to prove that delay occurred due to factors beyond its control

Summary – The Mumbai ITAT in a recent case of Krishna Developers, (the Assessee) held that where assessee filed appeal before Tribunal with a delay of 107 days without showing that it had taken all possible steps to file appeal within prescribed time period and delay in filing appeal occurred due to factors which were beyond its control, appeal was to be rejected and, as a consequence, appeal was to be dismissed being barred by limitation

Facts

- The assessee filed appeal before the Tribunal with a delay of 107 days. Even though the assessee had put fault upon the Chartered Accountant, but no affidavit of Chartered Accountant was placed on record.
- The revenue raised objection against assessee's prayer for condonation of delay.

Held

- The rules of limitation are not meant to destroy the rights of parties, but at the same time they are meant to see that parties do not resort to dilatory tactics and seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury and the law of limitation fixes a lifespan for such legal remedy for the redressal of the legal injury so suffered. The law of limitation is thus founded on public policy which is enshrined in the maxim '*interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation)'.
• There is no thumb rule that the delay in all cases is to be condoned. However, 'Acceptability of the explanation is the only criteria'. Sometimes the delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other other cases, delay of a long range can be condoned as the explanation thereof is satisfactory. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation.
- In the facts of the present case, the assessee has woken up from his slumber after a huge delay of 107 days and it has not been shown that all possible steps to file the appeal before the Tribunal were taken and the delay in filing the appeal was not because of any factors which were 'beyond the control of assessee'. Considering the totality of the facts and circumstances of the case, the Bench was not at all convinced with the casual and cavalier approach of the assessee in pursuing the legal remedy of approaching the Appellate Tribunal by way of filing appeal. Resultantly, plea raised by the assessee for condoning the delay in filing appeal stands dismissed.
- In the net result, appeal filed by the assessee stands dismissed.