GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE COMMISSIONER OF INCOME TAX, APPEAL

To,	

PAN:	AY: 2010-11	Dated: 19/12/2025	DIN & Order No :

Order u/s 250 of Income Tax Act,1961

*Instituted on **25/02/2025** from the order of **Centralized Processing Centre** dated 17/05/2011*

Appeal No	
Status/Deductor Category	Individual
Residential Status	Non Resident
Nature of Business	Others
Section under which the order appealed against was passed	143(1)
Date of Order under which the order appealed against was passed	17/05/2011
Income/Loss Assessed (in Rs .)	2459420
Tax/Penalty/Fine/Interest Demanded (in Rs.)	830960
Date of Hearing(s)	As per record(s)
Present for the appellant	Sh. Vaibhav Aggarwal,CA
Present for the Department	Not Applicable

(All sections referred to in this order relate to Income Tax Act,1961 unless otherwise stated)

This appeal arises from the intimation dated 17.05.2011 passed by the Centralized Processing Centre (CPC), Bengaluru under section 143(1) of the Income Tax Act, 1961, (hereinafter referred to as “the Act”) for the Assessment Year 2010-11.

2. The **grounds of appeal** are re-produced below:

In lig cumstances of the case and the applicable provisions of law, nd (hereinafter referred to as "the Appellant") (Non-Resident) respectfully seeks leave to file an appeal against the intimation order issued under Section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as "the impugned order"), dated May 17, 2011, passed by the Centralized Processing Centre ("Ld. CPC"), on the following grounds: -

Ld. CPC has not allowed exemption under Section 10 of the Act

- *That on the facts and circumstance of the case, Ld. CPC erred in taxing the appellant's income amounting to INR 25,59,422 despite its credit to the NRE account and eligibility for exemption under Section 10 of the Income Tax Act, 1961.*

- *That on the facts and circumstance of the case, Appellant inadvertently claimed a deduction of INR 25,59,422 under Chapter VI-A while filing the tax return instead of Section 10 of the Act.*

- *The Ld. CPC failed to consider that the income itself was exempt under Section 10, making the Chapter VI-A deduction claim inconsequential.*

2.1 **ADDITIONAL GROUNDS OF APPEAL** raised during the course of appeal proceedings:

- *That the CPC erred in including salary of 25,40,658 earned for services rendered outside India in the total income, despite the Appellant qualifying as a non-resident under Section 6 of the Income-tax Act, 1961.*

- *That the said salary neither accrued nor was received in India and is thus not taxable under Section 5(2) of the Act.*

- *That the CPC failed to consider CBDT Circular No. 13/2017, which clearly exempts such foreign salary from tax in India when credited to an NRE account.*

- *That the CPC order is erroneous, arbitrary, and deserves to be set aside in the interest of justice.*

3. **Statement of Facts** as stated by the appellant in Form 35 is as under:

3.1 The appellant is a non-resident seafarer employed with Tanker Pacific Management Singapore Pte Ltd. (now known as Eastern Pacific Shipping Pte. Ltd) He is engaged in duties aboard a vessel that operates outside the territorial waters of India and is actively involved in the operation and navigation of the ship.

3.2 The Appellant filed the Return of Income under Section 139(4) of the Income Tax Act

on March 28, 2011, bearing Acknowledgment Num . In the said return, the assessee declared income earned from employment from foreign shipping company under the heads "Salary" and "Income from Other Sources", aggregating to a gross total income of INR 25,59,422. Further, the Appellant claimed deductions under Chapter VI-A amounting to INR 25,59,422, resulting in a net taxable income of NIL. Accordingly, no tax liability was payable by the Appellant.

3.3 Thereafter, the aforesaid ROI was processed by the Ld. CPC, and an intimation order under section 143(1) of the Act was issued on May 17, 2011, bearing DIN No. 364, raising a demand of INR 8,30,958. With respect to the intimation order issued under section 143(1) of the Act, the Ld. CPC reduced the deduction claimed under Chapter VI-A from INR 25,59,422 to INR 1,00,000. Consequently, the total income was computed at INR 24,59,422 as against the NIL income reported in the original return of income. This resulted in a total demand of INR 8,30,958, including interest of INR 1,69,877.

3.4 The Appellant, being aggrieved by the impugned order, preferred this appeal.

4. Condonation of Delay in filing the appeal:

4.1 The instant appeal has been filed on 25.02.2025. The impugned intimation order was passed online by the CPC on 17.05.2011 and the date of service thereof has also been stated to be 17.05.2011 in the Form 35. Thus, the appeal is found not filed within the prescribed period of 30 days from the service of the demand notice as mandated u/s 249(2). The delay is about 13.5 years. The appellant has requested for condonation of the delay in filing the appeal explaining the reason for delay as reproduced below:

> *"We are filling this appeal which was due to be filed on 16.06.2011. There is delay of about 13.5 years in filling this appeal. The delay in filling the appeal has occurred on account of reason stated below:*
>
> *The assessee was unable to file the appeal within the prescribed time as assessee was unaware of the requirement to do so. This came to the assessee's attention when assessment proceedings for AY 2019-20 and AY 2020-21 were initiated recently.*
>
> *Following this, the assessee engaged a professional to assist with the assessment proceedings, which ultimately resulted in a favorable order.*
>
> *During this process, the tax professional discovered an outstanding demand of Rs. 8,30,958 for AY 2010-11, which was subsequently brought to the assessee's attention.*
>
> *During this process, the tax professional discovered an outstanding demand of*

Rs.8,30,958 for AY 2010-11, which was subsequently brought to the assessee' s attention. Prior to this, the assessee was unaware of the said demand. Upon reviewing the matter, the assessee realized that there was an inadvertent clerical mistake in the Income Tax Return for AY 2010-11, which he had filed himself. Instead of declaring the income as exempt under Section 10 of the Income Tax Act, since the income was credited to an NRE account, the assessee mistakenly claimed a deduction under Chapter VI-A..

Due to a lack of knowledge about the appeal process and related formalities, the assessee was unable to take timely action, resulting in the delay in filing the appeal.

Under the circumstances, it is prayed that the appeal being filed may kindly be taken on record and adjudicated upon on the basis of merits of issue involved and condonation in filling this appeal may be granted to the assessee"

4.2 Further, in continuation of the above application, during the course of the appeal proceedings, the authorized representative of the appellant CA Sh. Vaibhav Agarwal attended personally and explained the reasons behind delayed filing of the instant appeal. He also submitted an additional detailed application, dated 02.12.2025, for condonation of the delay in filing this appeal which is reproduced below:

"We refer to the notice issued u/s 250 of the Act dated November 26, 2025 (enclosed as Annexure A) in connection with the appeal being simultaneously filed along with this application by the Appellant under Section 246A of the Income-tax Act, 1961 ("the Act") before your Honour. In this regard, the Appellant has already submitted an application for condonation of delay dated July 08,2025. Copy of the said application is enclosed as Annexure B for your reference.

Further, the Appellant hereby submits an additional application, in continuation of the earlier submission filed for condoning the delay, providing detailed grounds explaining the reasons for the delay in filing the appeal. The Appellant respectfully prays that the delay may kindly be condoned in the interest of justice.

In this regard, the Appellant most respectfully seeks to submit as follows:

1. Facts of the case

d (the Appellant), aged 56 years, being a seafarer was employed with Tanker Pacific Management Singapore Pte Ltd during the subject year. He was engaged in duties aboard a vessel that operates outside the territorial waters of India and is actively involved in the operation and navigation of the ship.

- *The Appellant filed the Return of Income under Section 139(4) of the Income Tax Act on March 28, 2011, bearing Acknowledgment No. 2 . In the said return, the Appellant reported income earned from employment with a foreign shipping company under the heads "Salary" amounting to INR 25,40,658 and "Income from Other Sources" amounting to INR 18,764, aggregating to a gross total income of INR 25,59,422. Although such income was not taxable in India, as the Appellant was a non-resident during the relevant year and salary earned outside India does not fall within the ambit of taxable income under Indian tax laws, the same was voluntarily disclosed under the head "Salary" purely for transparency and disclosure purposes.*

- *Further, to bring the total taxable income to NIL, the Appellant inadvertently claimed deductions under Chapter VI-A amounting to INR 25,59,422, resulting in a net taxable income of NIL.*

- *Thereafter, the aforesaid ROI was processed by the Ld. CPC, and an intimation order under section 143(1) of the Act was issued on May 17, 2011, bearing [redacted] raising a demand of INR 8,30,958. A copy of the said intimation is enclosed as Annexure C.*

- *With respect to the intimation order dated May 17,2011 issued under section 143(1) of the Act, the Ld. CPC reduced the deduction claimed under Chapter VI-A from INR 25,59,422 to INR 1,00,000. Consequently, the total income was computed at INR 24,59,420 as against the NIL*

income reported in the original return of income. This resulted in a total demand of INR 8,30,958, including interest of INR 1,69,877.

- *The assessee, being aggrieved by the said order, has preferred an appeal before Your Honour by filing Form 35 dated February 25,2025. It is respectfully submitted that there has been a delay of 13 years in filing the said appeal. However, it is imperative to emphasize that the appellant is not at fault, nor was there any intention to delay the filing of the appeal. The delay occurred due to circumstances beyond the control of the appellant and was caused by sufficient and reasonable grounds.*

- *Further, your Honour has issued a notice under section 250 of the Act, wherein the Appellant was directed to furnish a response in support of the grounds raised. The Appellant, being an honest and responsible citizen, has duly and promptly responded to each notice issued.*

- *Thereafter, the counsel of the Appellant attended the personal hearing before your Honour on November 18, 2025, to represent the matter on behalf of the Appellant and submitted various grounds seeking deletion of the demand raised as well as condonation of delay in filing the appeal.*

In continuation of the hearing conducted, the Appellant hereby submits a detailed, category wise submission for condonation of delay in filing the appeal before your Honour, as provided below:-

2. Our Submission

A. Grounds for Condonation of Delay

Delay was Bonafide, unintended and beyond control:-

(I) The Appellant was required to remain outside India for the majority of the period due to the nature of his employment duties

 During the subject year, the Appellant was employed as a non-resident seafarer with Tanker Pacific Management Singapore Pte Ltd. He performed duties aboard a vessel operating outside the territorial waters of India, actively involved in the ship's navigation and operation. The Appellant received salary from the foreign company for services rendered on the vessel outside India and had spent the requisite number of days outside India as prescribed under the Income-tax Act to qualify as a non-resident.

 Being a non-resident seafarer, the salary earned for services rendered outside India was not taxable in India because the income accrues and arises outside the country, and thus does not form part of the total income chargeable to tax in India under the applicable provisions of the Income-tax Act. However, due to inadvertence by the tax practitioner responsible for filing the return, this income was reported under the head "Salary" and corresponding deductions were claimed under Chapter VI-A, which led to a tax demand of INR 8,30,958 in the intimation order of the subject year.

 The Appellant, who was a full-time employee and spent most of the year outside India, was not well-versed with income tax laws and relied entirely on the tax practitioner for compliance. During the period of delay, the tax practitioner never informed the Appellant about the tax demand, which caused the delay in filing the appeal. Further, the Appellant had never previously encountered any demand requiring the filing of an appeal before a higher authority, so the delay cannot be construed as intentional, negligent, or malafide. It arose solely due to genuine hardship and circumstances beyond the Appellant's control.

 By not filing the present appeal, or by filing it with a delay, the Appellant stood to gain nothing. The conduct of the Appellant was neither contumacious nor dishonest. Therefore, there was no deliberate intention on the part of the Appellant to delay the filing of the appeal. Reference can also be made in case of Ratanlal Dangi V/s ITO (1995) 51 TTJ 611(JP) and CIT V/s Motilal Padampat Sugar Mills Co. (P) Ltd. (1979) 118 ITR 200 (SC)

 It is pertinent that the Appellant became aware of the tax demand for AY 2010-11 only when assessment proceedings were initiated for later years AY 2019-20 and 2020-21. Upon initiation of these proceedings, the Appellant engaged a qualified tax professional, Shri CA Vaibhav Aggarwal, who reviewed the Appellant's income tax records and discovered the outstanding demand for AY 2010-11 had gone unnoticed by the previous tax practitioner. This liability was immediately brought to the Appellant's attention.

 Upon gaining knowledge of this demand, the Appellant acted promptly and diligently, filing the present appeal against the intimation order at the earliest possible opportunity, demonstrating no deliberate delay or malafide intent in the matter.

 Appellant respectfully submits that the delay in filing the appeal was a bona fide error, arising from reliance on professional advice and circumstances beyond the Appellant's knowledge and control. The Appellant had no malafide intention, and the delay was not due to negligence or willful disregard but genuine hardship. Notarised affidavit in also enclosed as Annexure Daffirms all aforementioned facts, demonstrating the delay was unintentional and excusable under the law. The Appellant therefore prays for the condonation of the delay and acceptance of the appeal on merits.

(II) All communications relating to the demand raised were sent to the tax practitioner instead of the Appellant.

 Your Honour, it may be contended by your office that even though the Appellant was outside India and unaware of the tax demand raised for the relevant year, he ought to have reviewed emails or other communications issued in connection with the recovery of the said demand. However, this contention is entirely unfounded, as all such communications were directed to the email ID of the tax practitioner and not to the Appellant. The Appellant, who relied entirely on the tax practitioner for all income-tax compliance matters, was unaware that the practitioner had registered his own email address on the Appellant's tax portal, thereby preventing the Appellant from receiving any intimation whatsoever regarding the demand raised for the relevant year. Moreover, during the entire period of delay, the tax practitioner did not inform the Appellant of any such communication.

 This led to genuine hardship for the Appellant, as he remained completely unaware that any demand had been raised. Neither did the Appellant receive any direct communication from the Income Tax Department, nor did the tax practitioner, who was actually receiving the communications, ever inform the Appellant about the demand.

 In this regard, the Appellant has enclosed a notarised affidavit wherein he has affirmed on oath that during the entire period of delay, he was not aware of any communication issued by the Income Tax Department in relation to the demand raised. The Appellant has also affirmed that the email ID of the tax practitioner was registered on the tax portal instead of the Appellant's own email ID, which kept him in the dark regarding the demand.

 To substantiate the above, a screenshot No. 1 of the relevant tax return was enclosed, which clearly reflects that the email address of the tax practitioner was registered instead of that of the Appellant. Additionally, screenshot No.2 from the e-proceeding tab of the tax portal has been provided, evidencing that all communications and notices issued by the Department were sent to the tax practitioner's email address rather than to the Appellant.

Your Honour, in view of the aforesaid screenshots, it is evident that the Appellant's email address was never registered on the portal. Consequently, the Appellant did not receive any communication or updates regarding the demand raised.

 Your Honour would kindly appreciate that where the Appellant is not at fault, the delay deserves to be condoned. In support of this proposition, reliance is placed on the judgment of the Hon'ble Supreme Court in M/s. Concord of India Insurance Co. Ltd. vs. Smt.Nirmala Devi and Others (AIR 1979 SC 1666). In the said judgment, the Hon'ble Supreme Court held that a legal advice tendered by a professional and the litigant acting upon it one way or the other could be a sufficient cause to seek condonation of delay and, coupled with the other circumstances and factors for applying liberal principles, then said delay can be condoned. Eventually, an overall view in the larger interest of justice has to be taken. None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority finds that the litigant has deliberately and intentionally delayed filing of the appeal, that he is careless, negligent and his conduct is lacking in bona fides. These are, therefore, some of the relevant factors. Those factors should therefore necessarily go into an adjudication of the present nature.

 In the case of M.K. Hotel and Resort vs. Assistant Commissioner of Income Tax (I.T.A. No. 57/Asr/2021), the Hon'ble Tribunal condoned a delay of nine years, holding that the assessee had not received the intimation as all email communications were directed to the accountant's email address. Since the accountant was responsible for maintaining the assessee's email and had failed to inform the assessee about the intimation, the Tribunal accepted this as a

sufficient and reasonable cause for the delay and accordingly granted condonation.

 Reliance may also be placed on the decision in Anklav Mercantile Co-operative Credit Society Ltd. vs. Deputy Commissioner of Income Tax (I.T.A. No. 685/Ahd/2025), wherein the Hon'ble Tribunal held that the delay deserved to be condoned as the assessee was genuinely unaware of the assessment order due to non-communication by its consultant. The assessee came to know of the matter only when it later approached a Chartered Accountant to file the appeal. The Tribunal thus observed that the assessee had demonstrated sufficient and reasonable cause for the delay, arising from a bona fide mistake and lack of communication on the part of the consultant, and accordingly condoned the delay in filing the appeal before the CIT(A).

 In Ram Lal & Sons vs. ITO (2006) 99 TTJ 0063 (Asr Trib) held as under:

"Appeal [CIT(A)]—Condonation of delay [of 6 years & 3 months]—Lapse on the part of advocate—Assessee's advocate did not file appeal against order of AO imposing penalty under s. 271(1)(c)—Assessee was under bona fide impression that appeal has been filed—It was only when AO issued further show-cause notice that assessee came to know that appeal has not been filed—Thereafter, it filed appeal within a week—Said fact not challenged by Revenue—CIT(A) ought to have condoned the delay"

 In Rohtak Co-op. Milk Producer Union Ltd. vs. ACIT (2012) 18 ITR 0310 (Del Trib) held as under:

"The term "sufficient cause" is quite elastic so as to enable the courts to apply the law in a meaningful manner which sub-serves the ends of justice. Further, a litigant should not ordinarily suffer for the mistake of the counsel. The delay in this case has been explained by way of the affidavit of the advocate. Since there are plausible reasons for delay as it occurred due to omission on the part of the advocate, the delay should be condoned. — Himachal Pradesh Cricket Association, Una, ITA Nos 110 and 111/Ch/2004 dated 8 September 2004 relied; Chief Post Master General & Others v Living Media India Ltd & another 197 Taxman 435 (Del) distinguished"

 In case of Arevat & D India Ltd. v/s JCIT (2006) 287 ITR 0555 (Mad), delay of 231 days was condoned, which occurred due to advice of counsel who did not give his affidavit. It was held that:-

"The assessee could not prefer the appeal within the time on account of the advice alleged to have been given by his counsel, and the assessee could not get an affidavit from the counsel, as insisted by the Tribunal. But, at the same time, it is not in dispute that the director of the assessee company has sworn to

an affidavit. It is a well-settled law that in exercising discretion under s. 5 of the Limitation Act the Courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard. The Court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression "sufficient cause", the principle of advancing substantial justice is of prime importance. If that be so, the Tribunal ought to have given a finding whether the assessee has given sufficient cause in the affidavit sworn to by the director of company, instead of refusing to accept the affidavit itself. In the absence of any finding by the Tribunal as to the "sufficient cause" for the alleged delay, the Tribunal has erred in refusing to exercise the discretion under s. 5 of the Limitation Act. The Tribunal was not correct in dismissing the appeal on account of limitation without giving a finding that there was no sufficient cause for the delay. The order of the Tribunal is set aside. The matter is remitted back to the Tribunal for disposal of the same on merits and in accordance with law.—Vedabai alias Vaijayanatabai Baburao Patil vs. Shantaram Baburao Patil (2002) 173 CTR (SC) 300 : (2002) 253 ITR 798 (SC) and Sreenivas Charitable Trust vs. Dy. CIT (2006) 280 ITR 357 (Mad) applied."

 In Hosanna Ministries vs. ITO. (2017) DTR 0008 (Mad.) held that

“Appeal (Tribunal)- Condonation of delay Reasonable cause- Delay of 1902 days in filing appeal against CIT’s order under s. 12AA was, as explained by assessee, on account of nonadvise on the part of the professional, who has been engaged by the assessee and the ignorance of law by the assessee itself- Assessee knew well that if a plea of ignorance of law is taken, that would be, on face of it, rejected by court/Tribunal, nevertheless, such a plea alone had been taken by the assessee and that itself would show the inherent genuineness attached with the reason cited by the assessee for such huge delay-court must take a pragmatic view in appreciating the reasons attributable to the delay caused to the party to approach the court of law further reason given by the tribunal for arriving at such a conclusion that the assessee was not engaging in activities in accordance with the objects specified in the trust deed also is not supported by materials as it is clear that the assessee has been functioning after proper registration with the authorities concerned under the Juvenile Act – Impugned order of the Tribunal set aside.’’

 In Vijay Vishin Meghani & ANR. Vs. DCIT & Anr. (Bom.HC), (2017) 100 CCH 0034 (DPB 33-42). held that

"Appeal—Condonation of Delay—Claim for deduction under Section 80-O made by Assessee was disallowed by AO for Assessment Year 1993-94 and confirmed by the Commissioner of Income Tax (Appeals)—Against order of Commissioner, assessee preferred appeal before Tribunal—Tribunal restored matter back to file of AO for Assessment Year 1993-94—AO passed order allowing claim under that section of the I.T. Act, 1961—Assessee preferred rectification application to AO to rectify his order for Assessment Year 1994-95 and Assessment Year 1996-97—Rectification application was rejected by AO—CIT(A) upheld order of AO—Assessee filed application for condonation of delay in filling appeal against order of CIT(A)—Tribunal held that assessee simply put responsibility for delay on Revenue—Tribunal dismissed two appeals filed by assessee holding that same as barred by limitation— Tribunal held that delay of 2984 days in filling appeal could not be condoned—Held,Supreme Court in case of Concord of India Insurance Co. Ltd.Vs. Smt. Nirmala Devi and others held that legal advice tendered by a professional and litigant acting upon it one way or other could be sufficient cause to seek condonation of delay and coupled with other circumstances and factors for applying liberal principles and then said delay can be condoned—None should be deprived of an adjudication on merits unless the Court of law or the Tribunal/Appellate Authority found that litigant deliberately and intentionally delayed filing of appeal— Tribunal though aware of these principles but possibly carried away by fact that delay of 2984 days was incapable of condonation—In process Tribunal went about blaming assessee and professionals and equally Department—Tribunal's order did not meet requirement set out in law— Tribunal completely misdirected itself and had taken into account factors, tests and considerations which had no bearing or nexus with issue at hand—Tribunal, therefore, erred in law and on facts in refusing to condone delay—Explanation placed on affidavit was not contested nor Court found that from such explanation , High Court could not arrive at conclusion that assessee was at fault, he intentionally and deliberately delayed matter and had no bona fide or reasonable explanation for delay in filing proceedings—High Court condoned delay of 2984 days in filing appeals—Assessee's Appeals allowed".

 Reliance can also be placed in the case of Shakuntala Hegde, L/R of R.K. Hegde v. ACIT, ITA No.2785/Bang/2004 wherein the Tribunal condoned the delay of about 1331 days in filing the appeal wherein the plea of delay in filing appeal due to advice given by a new counsel was accepted as sufficient.

 The Hon'ble Karnataka High Court in the case of CIT v. ISRO Satellite Centre, ITA No. 532/2008 dated 28.10.2011 has condoned the delay of five years in filing appeal before them which was explained due to delay in getting legal advice from its legal advisors and getting approval from Department of Science

and PMO. In the aforesaid decision, the Hon'ble Court found that the very liability of the assessee was non-existent and therefore condoned the delay in filing appeal. In condoning the delay in filing the appeals, the expression 'sufficient cause' should receive liberal construction and advancement of substantial justice is of prime importance. Discretion of condoning the delay has to be exercised on the facts of each case.

 Further, in the case of Radha Krishna Rai v. Allahabad Bank [(2000) 9 SCC 33. 733-34], it has been held that though the period of delay (1418 days) is unduly long for condonation of delay in preferring the appeal, the circumstances are also very unusual. The petitioner has been a victim of misrepresentation of facts by his own advocate and was kept under the impression that the appeal is pending before the High Court whereas no appeal was in fact filed by the advocate. It cannot be said that the appellant has not been vigilant in prosecuting the appeal. The cause shown by the petitioner is sufficient to justify condoning the delay in filing the appeal. Therefore, having regard to the reasons given in the petition, we condone the delay and admit the appeal for hearing.

 Reliance can also be place in case of M/s. Garg Bros. Pvt. Ltd. & Others vs. DCIT [ITA Nos.2519 to 2521/Kol/2017, order dated 18.04.2018], wherein under similar set of facts and reasons, the Hon'ble Tribunal was pleased to condone the delay of 211 days by holding as under:

"3. We have heard both the parties on this preliminary issue. Having regard to the reasons given in the application for condonation of delay, we are of the considered opinion that assessee was under a bona fide belief that the impugned order of Pr. CIT was not appealable before this Tribunal since they were not advised by their Tax Consultants about this legal right. Later on, when a Senior Lawyer advised them to file an appeal, the assessees immediately took steps to file the appeals. Therefore, the delay caused. We note that delay was occurred because of the wrong advice of the Tax Professional for which assessees cannot be penalized. For the ends of justice, we condone the delay and admit the appeal for hearing."

 The aforesaid rulings squarely applies to the present case. In the instant matter, the delay occurred solely because the Appellant was never made aware of the intimation order passed, as all communications were directed to the tax practitioner. Consequently, the Appellant was deprived of any knowledge regarding the demand raised for the relevant year.

(III) Tax demand raised in the intimation order u/s 143(1) was not appearing on income tax portal

- *In this regard, please note that fc R 8,30,960 was computed in intimation order u/s 143(1) of the Act, comprising a tax demand of INR 6,61,081 and interest of INR 1,69,877.*

- *Under normal circumstances, when any demand is raised by the Income Tax Department, a summary of such demand is duly reflected under "Outstanding Demand" tab on the Income Tax Portal.*

- *However, since the present demand pertains to a period much prior to the implementation of the current system, the same was not reflected on the portal. This resulted in genuine hardship for the Appellant as well as any tax practitioner, as the demand could not be viewed or ascertained through the portal.*

- *Further, to substantiate the above, a relevant screenshot from the Income Tax Portal is enclosed below for your reference:*

- *On review of the said screenshot, it is evident that the demand pertaining to the relevant year, amounting to INR 8,30,960, is not appearing on the Income Tax Portal, thereby causing genuine hardship to the Appellant. When the demand is not reflected on the portal, it is unreasonable to expect the Appellant to be aware that a demand has been raised or to take any necessary action in response thereto.*

- *The same came to the Appellant's notice only upon engagement of a new tax consultant, at the time when the assessment proceedings for AY 2019-20 and AY 2020-21 were initiated.*

- *Without any further delay, the Appellant proceeded with the filing of the aforesaid appeal before your Honour.*

 Therefore, non-appearance of the demand raised through the intimation order can be considered as one of the valid reasons as discussed below constituting "sufficient cause" for the delay in filing the appeal before your Honour.

(Iv) Refund of succeeding years was duly credited to Appellant Bank A/c without any adjustment of demand for the subject year

 In simple terms, a genuine and vigilant taxpayer normally remains concerned about the income tax refund that is routinely issued by the Department in the ordinary course of processing returns. If, in any year, such refund is not received, a reasonable taxpayer would promptly ask the tax practitioner to verify the reason for non-receipt and to check the status with the Department.

 In the present case, no such situation arose. The demand for the subject year was determined in 2011, and thereafter the appellant continued to receive refunds for the subsequent years without interruption. Even assuming, for the sake of argument, that the appellant had been negligent or had intentionally not filed an appeal before the learned CIT(A), such conduct would normally be inferred only where the appellant had not received the expected refund and still failed to make any enquiry. In such a scenario, it could be contended that, upon enquiry regarding non-receipt of refund, the appellant would have come to know of the demand and the order.

 However, in the appellant's case, this did not happen, as the refunds were duly issued for the subsequent years along with interest under section 244A of the Act, without any adjustment towards the alleged demand for the subject year. For ease of reference, a separate table has been prepared setting out the assessment years for which the appellant claimed refunds and the corresponding amounts actually issued. Further, a screenshot from the income tax e-filing portal is enclosed to demonstrate that the refund amounts claimed in the respective ITRs were credited to the appellant's bank account.

Table No.1

(All amount in INR)

Year pertaining to tax return	*Date of Intimation order*	*Amount of refund claimed in ITR*	*Refund credited into Appellant Bank Account*	*Status of Refund Relevant Annexure*
AY 2023-24	*21/09/2023*	*73,310*	*74,820*	*Refer Annexure E*

AY 2022-23	*28/12/2022*	*48,190*	*34,239*	*Refer Annexure F*
AY 2014-15	*18/02/2016*	*1,98,880*	*2,08,095*	*Refer Annexure G*

 The aforesaid facts clearly establish that the delay in filing the appeal by the appellant was neither deliberate nor actuated by any malafide intentions. The delay arose due to bona fide reasons, as the appellant was never made aware of the impugned order.

(IV) Power to condone delay must be exercised liberally

 In this regard, it is submitted that the settled judicial view is that the decision to condone delay should be exercised liberally. Such matter should be judged broadly and not in a pedantic manner. The Apex Court has again & again reiterated that the expression "sufficient cause" should receive a liberal construction. Morevover, in accordance with the provisions of section 249(3) of the Act, your good office is empowered to admit an appeal even after the expiry of the statutory limitation period, provided the Appellant is able to demonstrate "sufficient cause" for not having filed the appeal within the prescribed time. In this context, your kind attention is invited to the judicial views and interpretations expressed on the scope and meaning of "sufficient cause."

 In this regard, reliance can be made views expressed by the Hon'ble Apex Court in the case of Collector, Land Acquisition V. Mst. Katiji And Others (1987) 167 ITR 471 (SC) which held that the powers vested with the judiciary for condoning the delay must be pragmatically/liberally construed to apply the law in a meaningful manner that subserves the ends of justice. Following observations of the Hon'ble Apex Court are worth noting:

1. "Ordinarily, a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. 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.

3. "Every day's delay must be explained" does not mean that pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational, common sense and pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserve to be preferred, for the other side cannot claim to have vested right in injustice being done because of non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact, he runs a serious risk.

6. It must be grasped that the judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

(emphasis supplied)

 Further, In case of Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 SC 1336; Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v. Veena Bharti AIR 2011 SC 1150 and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai AIR 2012 SC 1629, it was held by the Hon'ble Supreme Court that—

"Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word 'sufficient' is 'adequate' or 'enough', inasmuch as may be necessary to answer the purpose intended. Therefore, the word 'sufficient' embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, 'sufficient cause' means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has 'not acted diligently' or 'remained inactive'. However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any 'sufficient cause' from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose."

The expression 'sufficient cause' is not defined in the Act, but it means a cause which is beyond the control of an assessee. For invoking the aid of section 249, any cause which prevents a person approaching the CIT(A), within time is considered as sufficient cause. In doing so, it is the test of reasonable man in

normal circumstances which has to be applied. The test whether or not a cause is sufficient is to see whether it could have been avoided by the party by the exercise of due care and attention. In other words, whether it is bona fide cause? What may be sufficient cause in one case may be otherwise in another. What is of essence is whether it was an act of prudent or reasonable man.

 In the case of N. Balakrishnan Vs. M. Krishnamurthy, the apex Court explained the scope of limitation and condonation of delay, observing as under :

"The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy for the redress of the legal injury so suffered. The law of limitation is thus founded on public policy.

 Reference should also be made toward case of Hon'ble Apex Court in the case of Mool Chandra vs. Union of India (in Civil Appeal Nos. 8435 – 8436 of 2024 vide order dated 05.08.2024) the issue of condoning the delay has been dealt with by the Hon'ble Apex Court that when the petitioner has shown sufficient cause for the delay then a liberal approach or justice oriented approach has to be taken in condoning the delay and in such case, it is not the period of delay but the reason for the said delay has to be taken into consideration and whether or not there has been negligence on the part of the assessee is to be weighed and not merely the number of days of delay.

 Further in the case of Vedabai Alias Vaijayanatabai Baburao Patil V. Shantaram Baburao Patil And Others (2002) 253 ITR 798 (SC) made a distinction in delay and inordinate delay observing as under :

"In exercising discretion under Section 5 of the Limitation Act the Courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard. The Court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression 'sufficient cause' the principle of advancing substantial justice is of prime importance. In our view in this case, the approach of the learned Additional District Judge is wholly erroneous and his order is unsustainable. It is evident that the discretion under Section 5 of the Limitation Act is exercised by the Additional District Judge in contravention of the law laid down by this Court,

that the expression 'sufficient cause' should receive liberal construction, in catena of decisions (see State of West Bengal v. The Administrator, Howrah Municipality & Others, [1972] 1 SCC 366 and Smt. Sandhya Rani Sarkar v. Smt Sudha Rani Debt & Others, [1978] 2 SCC 116)."

 In the case of Bharat Auto Center Vs. CIT [TS-5625-HC-2005(ALLAHABAD)-O], the Hon'ble Allahabad High Court observed that the law of limitation is enshrined in the maxim interest reipublicae ut sit f inis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

 Further, the Hon'ble Madras High Court in the case of Sreenivas Charitable Trust (supra) held that no hard and fast rule can be laid down in the matter of condonation of delay and the Court should adopt a pragmatic approach and the Court should exercise their discretion on the facts of each case keeping in mind that in construing the expression "sufficient cause" the principle of advancing substantial justice is of prime importance and the expression "sufficient cause" should receive a liberal construction. Therefore, this Judgment of the Madras High Court (supra) clearly says that in order to advance substantial justice which is of prime importance the expression "sufficient cause" should receive a liberal construction.

 Further, the principle of Substance Over Form must be applied. This doctrine requires that the authorities examine the true legal and factual substance of a matter rather than its mere procedural or technical form. Courts have consistently held that when the real nature of a transaction or the underlying facts differ from how they are recorded or presented due to clerical errors, procedural omissions, or technical defects, the substantive reality must prevail. Applying this principle, the substance of the matter must take precedence over its form, as Article 265 of the Constitution of India expressly provides that no tax shall be levied or collected except by authority of law. In the present case, the tax liability has been imposed on the assessee without any such authority of law, since the CPC has raised a demand on income that has neither accrued nor arised in India. It is a well-settled principle that without authority of law, no tax can be collected.

 Thus, in light of the facts and circumstances of the case, as well as the settled judicial precedents of the Hon'ble Supreme Court, it is most humbly submitted that the delay deserves to be condoned. It is well established that the pursuit of substantive justice must prevail, and that technical or procedural lapses should not obstruct the adjudication of a matter on its merits.

(V) While considering condonation of delay, the focus must be on the reason for

the delay rather than the length of the delay.

 Your office may contend that since the period of delay is substantial, condonation of such delay should not be granted. In contrast, the appellant has submitted various judicial precedents establishing that the length of the delay alone is not decisive in determining whether the delay should be condoned. The courts have consistently held that condonation depends on the explanation provided for the delay and the presence of sufficient cause, rather than merely the duration of the delay. Therefore, even in cases of considerable delay, if the appellant offers a reasonable and credible explanation, the delay can be condoned in the interest of justice.

 Attention of your Honour is also drawn in the case of CIT v. K.S.P. Shanmugavel Nadai and Ors. (153 ITR 596), where Hon'ble Madras High Court emphasized that when there is a reasonable cause for the delay, the length of the delay is not a decisive factor in condoning the delay. The court examined the case carefully and held that there was sufficient and reasonable cause on the part of the assessee for not filing the appeal within the stipulated period. Significantly, the Madras High Court condoned a delay of nearly 21 years in filing the appeal, highlighting that such a long delay was permissible when justified by reasonable cause. In comparison, the delay of approximately 14 years in the instant case cannot be regarded as inordinate or excessive, especially considering the guiding principles laid down in this judgment. Thus, condonation must be based on the presence of a reasonable cause rather than solely the period of delay.

This reinforces the appellant's submission that period of delay alone does not determine the condonation, and the existence of sufficient cause is the controlling factor.

 Further, for the kind reference of your Honour, a list of judicial precedents is provided below wherein authorities such as the Tribunal, High Courts, and the Supreme Court have condoned substantial delays in various cases.

Table No. 2

S. No	*Case Name*	*Case Citation*	*Periods of Delay Condoned by Higher Authorities*
1.	*M/s. Midas Polymer Compounds Pvt. Ltd.*	*ITA. No.288/Coch/2017*	*2819 days*

2.	*M.K. Hotels & Resorts Ltd.*	*ITA No.57/Asr/2021*	*9 years*
3.	*Shri Rama Krishna Ramisetty Ranga Reddy*	*ITA No.850/Hyd/2024*	*More than 10 years*
4.	*Vijay Vishin Meghani*	*ITA No. 493 OF 2015*	*2984 days*
5.	*Chirag P. Thummar*	*ITA No. 44/SRT/2022*	*1740 days*

 For the sake of brevity, only a limited set of instances has been referred to. However, there exists ample judicial precedent wherein delays in filing appeals have been condoned, provided that the appellant demonstrates "sufficient cause" for such delay and establishes that the delay was neither deliberate nor intentional, but occurred despite bona fide efforts to comply with the statutory timelines.

 Further, Your Honour's attention is respectfully drawn to Section 5 of the Limitation Act, which permits the condonation of delay in filing an appeal, application, or petition if the applicant demonstrates "sufficient cause" for not adhering to the prescribed time limit. In the present case, the Appellant had a genuine and sufficient cause for the delay, and the delay was neither willful nor deliberate. As explained above, the Appellant became aware of the intimation order only when a qualified tax professional was appointed to assist with the assessment proceedings for AY

2019–20 and AY 2020–21. Upon such realization, the Appellant promptly filed the present appeal before Your Honour.

 It is humbly prayed that on account of the above submission the delay in filing the appeal is condoned and the appeal be accepted.

(VI) In the Appellant's own case, the issue has already been decided favourably on merits in the succeeding assessment year

 In this regard, it is humbly submitted before your Honour that the Appellant's income tax returns were selected for assessment proceedings for three consecutive years, namely AY 2018-19, AY 2019-20, and AY 2020-21, wherein the nature of transactions was identical to those in the year under consideration. During these years as well, the appellant had received salary income and other

income such as capital gains and interest income, similar to the present case.

- *In the aforesaid years, pursuant to the assessment proceedings, it has been held that the appellant, being a non-resident, any income accruing or arising outside India falls outside the ambit of the Income-tax Act. In the present case as well, the appellant has received salary for services rendered outside India. Since such income neither accrues nor arises in India, it does not fall within the taxable purview of the Income-tax Act.*

- *In those years, the Ld. Assessing Officer accepted the appellant's contention and excluded the salary income from the scope of taxable income, thereby passing orders in favour of the appellant.*

- *For your ready reference, copies of the assessment orders for the said years, as issued by the Ld. AO, are enclosed as Annexure H. In addition to this, a comparative chart has been provided below, setting out the nature of income received during the subject year vis-à-vis the years in which assessments were concluded in favour of the appellant.*

Table No. 3

Particulars	*AY 2010-11 (subject year)*	*AY 2020-21*	*AY 2019-20*	*AY 2018-19*
Income under the head 'Salary' (to be disclosed in Schedule EI, as the same is not taxable under the provisions of the Income-tax Act) ……(A)	*25,40,658*	*61,94,161*	*92,16,871*	*76,51,703*
Income under the Capital Gain…….. (B)	*NIL*	*5,58,732*	*NIL*	*NIL*
Income under the other Source (Interest)…….. (C)	*18764*	*5,27,057*	*3,80,096*	*2,48,899*

Gross Total Income [(D)= (A)+(B)+(C)]	*18764*	*10,85,789*	*3,80,096*	*2,48,899*
Deduction under Chapter VI-A ……...……(E)	*NIL*	*3,567*	*1,52,809*	*10,000*
Net Income ….[(F) = (D) – (E)]	*18,764*	*10,82,220*	*2,27,290*	*2,38,900*
Total Tax Payable ……(G)	*NIL*	*1,05,048*	*NIL*	*NIL*
Tax Paid…… (H)	*NIL*	*1,06,285*	*2,260*	*22090*
Payable/(Refund) [(I) = (G)-(H)]	*NIL*	*(1,240)*	*(2,260)*	*(22,090)*

- *On perusal of the aforesaid table, your Honour would appreciate that the nature of income received in the subject year is at parity with the income received in the years in which assessments were decided in favour of the assessee. This clearly reflects that, on merits, the present case is also strongly in favour of the appellant.*

- *The delay in filing the appeal occurred solely due to an inadvertent error on the part of the tax practitioner while filing the return and his failure to communicate the same to the appellant. The appellant has not been at fault at any stage. He has always been honest and compliant with tax laws; however, the circumstances leading to the delay were entirely beyond his control.*

- *Mere technical or procedural issues cannot justify raising a demand on income which is not even within the scope of taxable income as per the provisions of the Income Tax Act. Such a demand causes a violation of the principles of natural justice by imposing an unlawful burden on the taxpayer without proper legal basis. Article 265 of the Constitution of India explicitly mandates that no tax shall be levied or collected except by the authority of law. Any demand raised without explicit legal backing is ultra vires and therefore*

illegal and void. Consequently, any such demand can be challenged and set aside as it lacks the constitutional and statutory authority required to impose a tax

3. Prayer

 In view of the above, it is prayed that the delay in filing of the appeal under section 246A of the Act was due to bonafide reasons and for reasons beyond the control of the Appellant

 Thus, it is prayed that the delay in filing of an appeal may be condoned, as otherwise, the Appellant would suffer further harm and prejudice as well as an irreparable loss. The cause of action for filing the present appeal ultimately arose when the Appellant hired tax professional for assistance in assessment proceedings for AY 2019-20 and AY 2020-21. "

4.3 On perusal of the above reproduced explanation furnished by the appellant, it appears that the appellant was not aware of any demand raised by CPC on processing of the return u/s 143(1). The appellant had declared NIL Total income after claiming entire gross declared income of Rs.25,59,422 as deduction under Chapter VIA with Nil tax liability in the ROI filed under the genuine belief that the salary income earned by him from employment with foreign shipping company was not taxable in India having been earned outside India. Though CPC processed the return u/s 143(1) on 17.05.2011 restricting deduction u/ch VIA to the maximum allowable limit of Rs. 1,00,000, thus determining Total Income at Rs.24,59,420 and raising demand of Rs.8,30,958 however, the appellant contends the said intimation raising demand was never received by him as he was most of the times outside India abroad sea sailing vessels being a career seafarer employed with a foreign shipping company. Further, the appellant has stated that he never received any communication/ reminder/recovery notice from the Income Tax department demanding to pay the outstanding demand. The appellant has stated that email id of the earlier tax practitioner was registered on the tax portal instead of his own and that the earlier tax consultant never informed him of any outstanding demand or communication in this regard from the department. The appellant has also submitted a notarized affidavit to this effect. The appellant has also asserted that the outstanding demand for AY 2009-10 with identical facts and return of income is not reflected in the portal even till date and that he even continued to receive subsequent years refunds with interest u/s 244A without any interruption or adjustment of any past outstanding demand u/s 245. The refund for AY 2023-24 was received without adjustment of any outstanding demand as late as on 21.09.2023. Thus, the appellant's contention that there was no occasion for him to come to know of any demand raised by CPC and to take any necessary action in response thereto appears to be genuine esp. in view of the fact that the appellant's claim of foreign salary income as a non-resident seafarer to be not taxable in India has been accepted in all his subsequent years returns and also in recent

scrutiny assessments. The appellant has further stated that he came to know of the outstanding demand only when his returns for AY 2019-20 & 2020-21 were recently selected for scrutiny assessment proceedings and he engaged a qualified tax professional to represent him and it was he who reviewed his past income tax records and discovered the outstanding demand for AY 2010-11 on the portal. As the facts of /claims made in the returns filed for AY 2009-10 & 2010-11 were similar, the demand raised and outstanding for AY 2009-10 also came to knowledge of the consultant on enquiry/review. Accordingly, the requisite facts/documents were gathered and the instant appeals came to be filed by the appellant before the CIT(A) for both AY 2009-10 & 2010-11 belatedly.

4.4 Considering the above reproduced detailed explanation offered by the appellant and keeping in view the peculiar facts & circumstances of the case as brought out above by the appellant, I am of the considered opinion that the delay in filing the instant appeal was due to bonafide error on part of the appellant arising out of reliance on professional advice in claiming the deduction u/Ch VIA in respect of foreign salary income, genuine belief that his foreign salary income was not taxable in India and lack of awareness about any demand raised by CPC u/s 143(1). No gross negligence or willful disregard or any malafide intention is noted in this case. It has been held by the higher courts, including the Apex court, that if the reasons for the delay are found to be genuine, the length of delay is irrelevant. Therefore, in view of the peculiar facts & circumstances of the case and the explanation submitted by the appellant, I am satisfied that the appellant was prevented by sufficient cause in not presenting the instant appeal within the prescribed period of limitation u/s 249(2). Therefore, **the delay in filing the instant appeal is hereby condoned u/s 249(3) and the appeal is admitted for adjudication.**