

# Revenue to reconsider forgiving ITR file delays beyond 25 years by rebuilding records, according to the High Court

Kailash Chand Agarwal [TS-521-HC-2023(ALL)]

Sep 12, 2023

CA Om Rajpurohit & Adv. Sakshi Bhardwaj

-AMRG & ASSOCIATES



## Facts of the case

In this case, the petitioner filed two Income Tax returns for the assessment years 1994-95 and 1995-96 with a significant delay of 1095 days and 730 days, respectively. The original due dates for filing these returns were 30.6.1994 and 30.6.1995. Along with the returns, the petitioner submitted applications for condonation of the delay.

## Assessee's contention

The petitioner argued that circulars issued under Section 119(2)(b) of the Income Tax Act authorized officials to condone such delays. He pointed to a circular dated 9.6.2015, asserting that a similar circular was in effect when he filed his Income Tax Returns with delay condonation applications in 1998. The petitioner contended that if his delay condonation application had been allowed within the stipulated 6 months, the case would have been decided on its merits.

## Revenue's contention

The Income Tax Department contended that the petitioner's returns for the assessment years 1994-95 and 1995-96 were filed well beyond the statutory deadlines (30.6.1994 and 30.6.1995). According to the Department, these returns had become honest and could not be considered.

## *Held*

The court observed that the delay condonation applications should have been decided within the time provided by the Act when they were filed on 30.3.1998. At that point, all records would have been available. However, the order passed by the Department on 24.10.2019, more than 20 years later, citing the unavailability of records, was deemed untenable. Consequently, the court quashed the order.

The Principal Commissioner of Income Tax, Department - I, Agra, was directed to reevaluate the petitioner's applications filed on 30.3.1998. The Department was instructed to make every effort to reconstruct the record in collaboration with the petitioner and utilize all available records.

### ***AMRG Take***

This case underscores the importance of timely decision-making by tax authorities when considering delay condonation applications. It highlights the need for adherence to statutory timelines and the obligation of tax officials to act promptly to prevent unjust delays in resolving tax matters.

The court's decision also emphasizes the principle of fairness and accountability in tax administration. Tax authorities are expected to diligently manage records and provide taxpayers with an opportunity to present their case. Delays of over 20 years, resulting in the inability to locate records, were deemed unacceptable in this instance, and the order was set aside in the interest of justice.



© AMRG & ASSOCIATES, 2023

Published in India. All Rights Reserved. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form, or by any means, electronic, mechanical, photocopying, recording, or otherwise without prior permission, in writing, from the publisher. This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither AMRG nor any other member of the firm can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. The information contained in this communication is intended solely for the use of the addressee and others authorized to receive it. If you are not the intended recipient you are hereby notified that any disclosure, copying, distribution or taking any action in reliance on the contents of this information is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by phone, fax or email and delete it from your system. A M R G & Associates is neither liable for the proper and complete transmission of the information contained in this communication nor for any delay in its receipt. In case you wish not to receive this information then do write back to the sender of this information, in case you have received it directly from AMRG servers then you can unsubscribe the same at [www.amrg.in](http://www.amrg.in)



### NEW DELHI

AMRG Tower, 23,  
Paschim Vihar Ext.,  
Main Rohtak Road,  
New Delhi-110063

Rajat Mohan  
Senior Partner  
rajat@amrg.in

Priyanka Sachdeva  
Partner - GST  
priyanka@amrg.in

---



### MUMBAI

304, Green Meadows C  
H S Ltd, Lokhandwala  
Township, Kandivali,  
East Mumbai, 400101

Madhu Mohan  
Founding Partner  
amrg@amrg.in

Kiran Awasthi Raghavendra  
Partner - Assurance and Compliance  
amrg@amrg.in

---



### DEHRADUN

Villa No. 12, Upper Crest Avenue,  
Jakhan, Rajpur Road, Dehradun,  
Uttarakhand, India, 248001

Swati Ghoshal  
Partner - Risk Advisory and compliance  
swati@amrg.in

---



### GURUGRAM,

204, 2nd Floor, Time Center, Golf  
Course Road, Sector 54, Gurugram,  
Haryana 122002

Gaurav Mohan  
CEO  
gaurav@amrg.in

---



### INTERNATIONAL BRANCH - AUSTRALIA

Unit 9, 14-15 Junia Avenue,  
Toongabbie NSW 2146,  
Sydney, Australia

Megha Gandhi  
Director- Australia  
amrg@amrg.in

---



### INTERNATIONAL DESK - USA

Wiener & Garg LLC,  
6000 Executive Boulevard,  
Suite 520 | Rockville,  
MD 20852T: 301.881.4244  
D: 240.833.4002

Subhash Garg  
Wiener & Garg LLC  
amrg@amrg.in

---



### INTERNATIONAL BRANCH HONG KONG

Hong Kong Address - Flat B,  
Floor 1, Tower - 7, Yee Mei Court,  
South Horizons, ap lei chau,  
Hongkong

Divya Malhotra  
Director - Hong Kong  
amrg@amrg.in