

Man sells property, skips ITR filing, faces Rs 90 lakh penalty: Here's what ITAT said

A property sale from financial year 2015-16 came back to haunt Gnyanoba Dagadu Masurkar years later. After he failed to file an income tax return and did not respond to [tax department](#) notices, the Assessing Officer added Rs 2.65 crore as short-term capital gains to his income. The department subsequently imposed a penalty of Rs 90.09 lakh.

When Masurkar challenged the assessment and penalty, he faced another hurdle. The Commissioner of Income Tax Appeals dismissed his appeals because they were filed late and the delay was not adequately explained.

However, the [Income Tax Appellate Tribunal](#), Pune, has now given him another opportunity to contest the case.

In an order dated September 9, 2026, the tribunal condoned the delay, set aside the orders of the first appellate authority and sent the disputes back for fresh consideration.

The relief comes with an important caveat. The tribunal has neither cancelled the Rs 90.09 lakh penalty nor deleted the Rs 2.65 crore capital gains addition. It has only allowed the taxpayer another opportunity to present his case.

The ruling offers an important lesson for [taxpayers](#) who receive income tax notices but fail to respond. Missing a deadline can make a tax dispute more difficult to resolve, although an appellate authority may still allow a delayed appeal if it finds sufficient cause.

How a property sale led to a Rs 2.65 crore tax addition

The case relates to the sale of immovable property during financial year 2015-16. According to the tribunal's order, the Income Tax Department received information about the transaction and the tax deducted at source by the buyer under Section 194-IA of the Income-tax Act, 1961.

The department also found that Masurkar had not filed an income tax return for assessment year 2016-17.

The Assessing Officer believed that income had escaped assessment and issued a notice under Section 148 on February 17, 2023. This was followed by notices under Section 142(1), questionnaires and a show-cause notice.

However, the taxpayer did not respond to these notices, according to the tribunal's order.

The Assessing Officer also issued a notice to the builder under Section 133(6) and obtained information about the transaction. With no explanation or supporting documents from the taxpayer, the officer proceeded with the assessment using the information available on record.

The officer invoked Section 144, which deals with best-judgment assessments in specified circumstances. The assessment order, passed on March 19, 2024, added Rs 2.65 crore as short-term capital gains and Rs 1,14,925 as interest income.

This took the taxpayer's total assessed income to Rs 2,66,14,925.

The order does not disclose the property's sale consideration, its original purchase cost or the detailed calculation used to arrive at the capital gains figure. Therefore, the Rs 2.65 crore addition should not be confused with the property's sale price.

Why did the department impose a Rs 90 lakh penalty?

The assessment was followed by separate penalty proceedings.

The Assessing Officer issued a notice under Section 274 read with Section 271(1)(c) of the Income-tax Act, 1961, asking the taxpayer to explain his position. The tribunal's order records that the taxpayer did not respond to the penalty notice either.

The officer subsequently imposed a penalty of Rs 90,09,013 on September 1, 2024.

Masurkar challenged both the assessment and the penalty before the Commissioner of Income Tax Appeals. These were separate appeals because they related to two different orders.

However, the first appellate authority found that the appeals had been filed late. It also concluded that the taxpayer had not provided sufficient reasons for the delay.

The appeals were consequently dismissed without the disputed tax addition and penalty receiving fresh consideration on merits at that stage.

This left the taxpayer with another legal challenge. He approached the ITAT Pune against the orders of the first appellate authority, seeking condonation of the delay and an opportunity to contest the assessment and penalty.

What did the taxpayer tell the ITAT?

Before the tribunal, the taxpayer's authorised representative, Suhas S. Kulkarni, argued that the delay in filing the appeals was neither deliberate nor intentional.

He submitted that the delay had occurred because of circumstances beyond the taxpayer's control. He also said that a condonation application explaining the reasonable cause had been filed.

The representative further argued that the taxpayer had a case on merits and should be allowed to submit supporting evidence before the lower appellate authority.

The Revenue's representative, Rajesh Haladkar, defended the orders passed by the first appellate authority.

The ITAT examined the submissions and the material available on record. It acknowledged that the taxpayer had failed to comply with notices issued by the Assessing Officer and that the delay had not been adequately explained before the first appellate authority.

However, the tribunal also considered the taxpayer's request for condonation of delay filed in Form 35.

Why did the tribunal give him another chance?

The ITAT concluded that there was reasonable cause for condoning the delay. It observed that the taxpayer had not derived any benefit from delaying the filing of the appeals and that a pragmatic approach was warranted in the circumstances.

The tribunal relied on two Supreme Court judgments while considering the issue.

In *B. Madhuri Goud v. B. Damodar Reddy*, the Supreme Court discussed the need for a liberal and justice-oriented approach when deciding applications for condonation of delay. At the same time, it emphasised that the conduct of the litigant, negligence and the presence or absence of bona fides must be considered.

The tribunal also relied on *Collector, Land Acquisition v. MST Katiji*, in which the Supreme Court highlighted the importance of deciding cases on merits where justified, rather than allowing procedural technicalities to stand in the way of substantial justice.

The ITAT applied these principles to Masurkar's case and decided that he should get another opportunity to substantiate his claims.

The tribunal observed that there could be various reasons for non-compliance and that the taxpayer's request for condonation deserved consideration in the circumstances.

It said the matter should be approached in accordance with the principles of natural justice and that the taxpayer should be given one more opportunity to produce the necessary evidence and information.

What exactly has the ITAT ordered?

The tribunal condoned the delay in filing the appeals and set aside the orders passed by the Commissioner of Income Tax Appeals.

It then sent the disputed issues back to the first appellate authority for fresh adjudication. The taxpayer must be given an adequate opportunity to present his case and is expected to cooperate by submitting the required information.

The tribunal allowed both appeals for statistical purposes.

This does not mean that the taxpayer has won the underlying tax dispute. The ITAT has not ruled that the capital gains addition was incorrect or that the penalty was unjustified. Those issues remain open for fresh consideration.

The next stage will be important for the taxpayer. He will have to substantiate his position with supporting documents and explain why the department's assessment should be reconsidered. The outcome will depend on the evidence and arguments examined during the fresh proceedings.

Dinkar Sharma, Partner, Jotwani Associates, said: "The ruling highlights the importance of responding to income tax notices within the prescribed time and preserving the right to appeal. Condonation of delay can provide another opportunity where sufficient cause is established, but it does not automatically remove the tax demand or penalty. Taxpayers should maintain their records, respond to notices promptly and seek professional advice if they dispute an assessment."

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What should taxpayers learn from the case?

The case highlights the risks of ignoring income tax notices, particularly when a property transaction is involved.

Tax deducted at source on a property sale does not, by itself, settle the seller's income tax obligations. Taxpayers should check whether they are required to file a return, report the transaction correctly and calculate any capital gains tax payable under the applicable rules.

They should also preserve important documents, including the purchase deed, sale deed, records of improvement costs, brokerage expenses and TDS details. These records can help establish the correct tax treatment of a property transaction if the department raises questions later.

When an income tax notice arrives, taxpayers should verify it through the official e-filing portal, check the response deadline and submit the required information within the prescribed time. If they disagree with the department's calculation, they should explain the reasons and provide supporting evidence rather than leave the notice unanswered.

If an assessment has already been passed, taxpayers should examine the available remedies and applicable appeal deadlines. Where a deadline has been missed, they may seek condonation of delay by explaining the circumstances, but acceptance is not automatic.

In Masurkar's case, the ITAT has opened the door to another hearing. Whether that opportunity results in a reduction or cancellation of the tax addition or penalty will depend on the fresh proceedings.

Disclaimer: *This article is based on the Income Tax Appellate Tribunal's order dated September 9, 2026. The tribunal has condoned the delay in filing the appeals and sent the case back for fresh consideration. It has not cancelled the Rs 90.09 lakh penalty or deleted the Rs 2.65 crore capital gains addition. The final outcome will depend on the fresh proceedings.*
