



2026:AHC-LKO:21720

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SALES/TRADE TAX REVISION DEFECTIVE No. - 8 of 2026

The Commissioner State Tax U.P. Lko.

.....Revisionist(s)

Versus

Sarvashree Sunny Edible Products Pvt. Ltd.
Barabanki Thru. Director Bhupendra Singh

.....Opposite
Party(s)

Counsel for Revisionist(s) : C.S.C.

Counsel for Opposite Party(s) : Deepak Kumar Pandey, Piyush
Agnihotri

Court No. - 5

HON'BLE ALOK MATHUR, J.

Order on Civil Misc. (Delay Condonation) Application No. 1 of 2026

1. Heard learned Standing Counsel for the applicant/revisionist.
2. By means of present revision the State has assailed judgment and order dated 08.05.2024, passed by the Commercial Tax Tribunal, Lucknow Bench-I, Lucknow, passed (*hereinafter referred to as "the Tribunal"*) in Second Appeal No. 241 of 2023, tax assessment year 2016-17, under Section 28(2)(II) of the VAT Act.
3. The Registry has reported that the present revision is beyond time by 537 days and an application for condonation of delay has been moved alongwith the affidavit giving reasons for delay caused in filing present revision.
4. According to the affidavit filed in support of the delay condonation application the judgment and order dated 08.05.2024, passed by the Tribunal and was examined by the Deputy Commissioner, State Tax, Bench-III, who sent a proposal on 23.09.2024 and it is only thereafter that orders were passed for obtaining legal opinion in the said case. The said opinion was submitted by learned Standing Counsel on 25.10.2024 and the Law Department of the State Government gave its permission to file revision on 14.11.2024. Subsequent to which the matter was referred to

the learned Standing Counsel of this Court and subsequently, revision was prepared in the month of December, 2025.

5. It is in the aforesaid facts this Court finds that at each stage where the file is processed, long unexplained delay has been caused. From the very start it took three months to send the matter to seek legal opinion and at every stage 2-3 months were consumed and lastly even when entire material was sent to the learned Standing Counsel to file revision, there is delay of more then 5 months.

6. The aforesaid aspect of delay has been duly considered by the Hon'ble Supreme Court in the case of **Shivama (Dead)by L.Rs. Vs. Karnataka Housing Board and others, 2025 SCC OnLine SC 1969**, wherein the Apex Court has held as under :-

"138. When a Court of Law deals with an application to condone the delay filed under Section 5 of the Limitation Act, such application will have to be generally viewed in a liberal and lenient way to do substantial justice between the parties. Section 5 of the Limitation Act must be liberally construed and applied so as to advance substantial justice. It is undoubtedly true that a justice oriented approach is necessary while deciding application under Section 5 of Limitation. However, it cannot be said that in every case delay must necessarily be condoned. It is a condition precedent for Section 5 of the Limitation Act that there must be a sufficient reason for condoning the delay.

139. However, while substantial justice must be advanced, the law of limitation is equally binding, and sufficient cause must be shown in substance, not in empty form. This ensures that the balance between justice and certainty is not skewed in favour of unmerited litigants.

140. However, at the same time, the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether sufficient cause? has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay.

141. Test of 'sufficient cause' cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain."

7. From the perusal of the aforesaid judgment, it is clear that the consideration of sufficient cause is not an ante formality but all the aspects for condonation of delay ought to be explained and the Court has to record satisfaction before condoning the delay. Accordingly, on the touchstone of the aforesaid judgment, this Court finds that sufficient explanation has not been given by the revisionist for condonation of delay in filing the revision.

8. This Court further finds that the delay in the present case is of 578 days which is extremely long length of time and for condoning the delay, sufficient cause ought to be given in the affidavit filed in support of delay condonation application, as per the judgment of **Shivamma (Supra)**.

9. Accordingly, for the aforesaid reasons, this Court do not find any ground for condoning the delay caused in filing the revision, hence, delay condonation application is rejected.

Order on **Sales/Trade Tax Revision**

1. It is noticed that the tax amount involved in the present case is of Rs.5,36,400/- and it is surprising that for such an amount the State has sought it fit to challenge the same before this Court.

2. This Court has been informed that no fresh litigation policy has been submitted by the State Government for the last more than 12 years, due to which number of matters involving petty amount are being assailed by the State Government.

3. In the light of the decision taken by the State to assail such petty tax amount before this Court, this Court is of the considered view that the State should take into account the quantum of tax effect before taking such decisions.

Since, delay condonation application is rejected, accordingly, present time barred Sales/Trade Tax Revision is also **dismissed**.

(Alok Mathur,J.)

March 25, 2026

A. Verma