

1. **For Condonation of delay before ITAT for admission of appeal, delay should be explained on day to day basis.** The assessee has only filed a vague and general affidavit from the CA which utterly lacks any specific contentions and fails to explain day-to-day delay in reasonable manner. The assessee has neither filed any evidence nor the affidavit of 'P' to corroborate the vague affidavit by the CA. The burden is on the assessee to reasonably explain day-to-day delay and establish that there existed reasonable and sufficient cause in delaying the filing of appeals for about 1 year. If the proper dates or occasions are not mentioned with proper facts then the delay cannot be condoned. That the condonation petition filed by the assessee and material available on the record, fail to invoke any confidence, fail to explain reasonable and sufficient cause for condonation of long delay of 347 days in filing these appeals. The assessee has to come clean with all the relevant facts, which happened in the period of one year. The assessee has to explain all the events and be specific in the dates. The depositions made in the C.A. affidavit remain uncorroborated and there is no affidavit from the said 'P' in support of the affidavit of C.A. Thus, the vague affidavit given by the C.A. remains uncorroborated and unreliable. In the entirety of facts and circumstances of the case, the delay of 347 days in filing these appeals cannot be condoned. **K.G.N.M.M.W. Educational Research & Analysis Society v. Income-tax Officer [2015] 169 TTJ 114 (Jaipur - Trib.).**
2. **Whether DIT (E) has rightly withdrawn registration u/s 12A from assessee society, where it did not fulfil the minimum criteria of providing concessional/free treatment to patients from EWS category, as per the criteria notified by the Delhi High Court to be implemented by the health department of Delhi – Held Yes.** The assessee was allotted prime land in the heart of most expensive South Delhi area of "Saket" by the Government with the condition of providing 10 per cent totally free indoor treatment and 25 per cent free OPD for the weaker sections of the society. The property/hospital of the appellant-society were taken over by Max Group, by creating various financial and legal obligations on the appellant society and the Max Group was running the hospital with a profit motive. The DIT(E) held that the assessee society was merely a "special purpose vehicle" to take advantage of concessional land allotted by the State Government and to pass off profit earned from operating hospital to companies belonging to Max Group and that the appellant society was not carrying on 'charitable purpose' as referred to in section 2(15) and registration under section 12A was to be withdrawn. Therefore, the DIT (Exemptions), passed order under section 12AA(3) withdrawing the approval/registration granted to the appellant society under section 12A. It seems that the assessee-society was charitable to only one entity out of the whole planet, *i.e.*, the corporate Max Group of companies. It was not charitable towards the society or public at large but, in fact, it was "uncharitable". It conducted its affairs in such a way that in spite of charging the most exorbitant fees etc. from its patients in the capital city of the country, if not the highest rates so charged, siphoned off its receipts to commercial corporate companies by entering into a number of agreements with them, to make itself liable to the entire amount of its

excess of income over expenditure and even more and after deducting allowable expenditure, the net income was negative, *i.e.*, a "loss", year after year. The reason for such *modus operandi* is best known to the assessee-society itself or to be investigated by the concerned agencies or the government allotting the prime land to the assessee-society on certain conditions, never fulfilled by the assessee-society. **Devki Devi Foundation v. Director of Income-tax (Exemptions) [2015] 170 TTJ 69 (Delhi)**