

**आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, AHMEDABAD**  
**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

**ITA No.1023/Ahd/2019**  
**Asstt.Year : 2011-12**

Bharatbhai Govindbhai Patel Sona Tekri Tal. Mahemdabad At. Aklecha Edist.Kheda PAN : BPBPP 5388 D	Vs	ITO, Ward-2 Nadiad.
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<b>(Applicant)</b>		<b>(Responent)</b>
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Assessee by :	None
Revenue by :	Shri Mukesh Sharma, DR

सुनवाई की तारीख/Date of Hearing : 19/09/2022

घोषणा की तारीख /Date of Pronouncement: 28 /09/2022

**आदेश/ORDER**

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals)-2, Vadodara (in short referred to as Id.CIT(A)) under section 250(6) of the Income Tax Act, 1961 ("the Act" for short), dated 27.2.2018 pertaining to Asst.Year 2011-12.

2. Registry of the Tribunal has pointed out that appeal of the assessee is time barred by 398 days. The assessee has filed a one page letter dated 14.6.2019 stating that due to ill-health he could not file appeal before the Tribunal in time. This letter of the assessee , in the form of application for condonation of delay , is neither supported by doctor's certificate nor any affidavit of the

assessee to that effect. The contents of the application read as under:

“From,  
Bharatbhai Govindbhai Patel  
Sona Tekri,  
Tal. Mahemdababd  
At. Aklecha,  
Dist. Kheda  
PAN.: BPBPP5388 D  
Date: 14/06/2019

To,  
Income-Tax Tribunal,  
Ahmedabad.

*Ref.: Regarding late filing of appeal for A.Y.2011-12.  
Sub.: Submission in relation to the above.*

*Respected Sir,*

*With reference to the above the appellant would like to submit that appeal for the A.Y. 2011-12 was to be filed by us on or before 15/05/2018 which is not yet filed before your good self. Further the appellant would like to mention reason that the appeal was not filed timely because the appellant was having severe back pain due to lower lumbar vertebrae spondylosis and doctor has prescribed to take complete bed rest till 30/05/2019. The certificate of doctor has been enclosed herewith for your ready reference. Whilst we regret for the inconvenience caused to your good self due to late filing of appeal. Kindly condone the delay of late filing of appeal*

*For, Bharatbhai Govindbhai Patel”*

3. The only reason given by the assessee for this huge delay of 398 days is due to back-pain suffered by the assessee. On going through the ordersheet of the case record, I notice that the case of the assessee was listed for hearing from 16.12.2021,11.03.22, 04.05.2022, and now today, but on none of the occasions, the assessee or his representative have cared to attend the proceedings before the Tribunal to defend his case despite service of notice on these occasions. Even before both the authorities below, the assessee was not cooperative nor complied with various notices issued to the assessee to explain his case. Para 3 of the appellate order of the ld.CIT(A) has noted as under:

*“3. During the occurrence of appellate proceedings, the assessee submitted a written submission in the DAK on 9.1.2018 through Shri S.R.Parikh, CA. Thereafter, the appeal has been fixed on 21.2.2018 but there was no compliance and hence the appeal is being decided on the basis of written submission.”*

4. Before me, the assessee has not set out any acceptable ground for the purpose of condoning the delay of 398 days and except some bare averments; no supporting documents or affidavits have been filed to bear some bona fide or legitimacy for judicious consideration of the huge delay of 398 days in filing appeal. Thus, I am not satisfied with the explanation given by the assessee in the application so as to persuade me to exercise discretionary power to condone the delay in filing appeal before the Tribunal. In the result, the appeal of the assessee is dismissed as un-admitted.

5. In the result, the appeal of the assessee is dismissed.

**Order pronounced in the Court on 28<sup>th</sup> September, 2022 at Ahmedabad.**

*Sd/-*  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**

Ahmedabad, dated 28/9/2022