

आयकर अपीलीय अधिकरण, सुरत न्यायपीठ, सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
Dr ARJUN LAL SAINI, ACCOUNTANT MEMBER

आ.अ.सं./ITA No.276/SRT/2017 (AY 2013-14)

(Hearing in Virtual Court)

Mayur Rohitbhai Shah Flat No.B/ 1-502 Swapna Shrushti Residency, B/h Western City, Pal, Bhatha, Surat	Vs	Income Tax Officer, Ward-3(3), Surat
अपीलार्थी/ Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से /Assessee by	None
राजस्व की ओर से /Revenue by	Shri Vinod Kumar, Sr-DR
सुनवाई की तारीख/Date of hearing	02.11.2022
उद्घोषणा की तारीख/Date of pronouncement	02.11.2022

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order of ld. Commissioner of Income-tax (Appeals)-II Surat [for short to as “Ld. CIT(A)”] dated 12.05.2011 for the assessment year 2007-08. Though, the ld CIT(A) has passed the order on 12.05.2011, however, appeal is filed before Tribunal on 30.11.2017 i.e. after more than six years of passing the impugned order of Ld. CIT(A). No application for condonation of delay is filed by assessee with

the appeal of assessee. On perusal of contents of **column No.- 9** of Form-36, it is revealed that assessee has mentioned the date of communication of the order as “20.11.2017”. No application for condonation of delay or showing any material or evidence that the order of Ld. CIT(A) was received only on 20.11.2017, is filed on record.

2. The Notice of this appeal was served on the assessee by way of registered post with Acknowledgement Due (RPAD). Perusal of record, it shows that authority letter of Shri Samir S. Jani, and Shri Hersh Samir Jani, Ld. Advocate is filed on record. The dates of adjournments were sought by them on more than seven times on plea or the other. We also find that another authority letter of S/Shri Subhash N Shah, Birju S Shah, Yogesh S Gamit, Shaunak K Zaveri and Mehul Mavapuri are also filed on record. They also sought adjournments on one reason or other. However, on 13.09.2022, Mr. Shonak Zaveri AR for assessee appeared and filed an application, which is signed by Mayur R Shah to withdraw their authority letter. Along with application for withdrawal of their authority, the ld. AR's of the assessee submits that they have already intimated the assessee about

the withdrawal of their authority letter and the date of hearing of the appeal. On such circumstances, this Bench issued fresh notice to the assessee as per the details provided in column / para-10 of Form-36, for the date fixed on 02.11.2022.

3. On 02.11.2022, i.e. today, despite service of notice, none appeared on behalf of assessee nor filed any application for adjournment. In such circumstances, we left no option except to decide the appeal on the basis of materials available on record and hearing of Ld. Senior Departmental Representative (Sr-DR) for the Revenue.
4. The ld Sr DR for the revenue submits that the assessee has neither filed any application for condonation of inordinate delay, nor came forward to explained it. Mere mentioning in the form-36 that the order of ld CIT(A) was received on 20.11.2017, is not sufficient. In absence of explanation of sufficient cause, the appeal is not to be entertained. The ld SR DR for the revenue prayed for dismissal of the appeal.
5. We have considered the submissions of the ld Sr DR for the revenue and perused the record carefully. We find that in **column No.-9** of Form-36, the assessee has simply mentioned

that order of Ld. CIT(A) was communicated on “20.11.2017”. The assessee has not explained the manner in which the order of Ld. CIT(A) was received. Admittedly, the order of Ld. CIT(A) was passed on 12.05.2011 and the appeal was filed after more than six years after passing the order of Ld. CIT(A) and there is inadvertently delay, the assessee failed to produce any plausible reason to explain for condonation of delay. Mere writing that the date of receipt of impugned order as per choice of assessee, to bring the appeal within period of limitation is not sufficient. Therefore, in absence of any application or reasonable cause in condoning the delay, the appeal of assessee is dismissed for want of limitation. Considering the fact that appeal is not admittedly for the want of limitation, the same is also dismissed being unadmitted.

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

Order pronounced in the open court on 02/11/2022 and the result was also placed on the Notice Board.

Sd/-
(Dr ARJUN LAL SAINI)
[लेखा सदस्य/ACCOUNTANT MEMBER]
Surat, Dated: 02/11/2022
Dkp. Out Sourcing Sr.P.S

Sd/-
(PAWAN SINGH)
[न्यायिक सदस्य JUDICIAL MEMBER]

Copy to:

1. Appellant-
2. Respondent-
3. CIT(A)-
4. CIT
5. DR
6. Guard File

By order

// True Copy //

Sr.P.S./Assistant Registrar, ITAT, Surat