

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ  
**IN THE INCOME TAX APPELLATE TRIBUNAL,  
" SMC" BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.152/AHD/2020  
निर्धारण वर्ष/Asstt. Year:2011-2012

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| Virendrasinh Bharatsinh Raulji,<br>A-21, Kangaltirth Tenament,<br>Nr. Aiyapa Mandir,<br>Naroda,<br>Ahmedabad-382330.<br><br><b>PAN: AKOPR7118L</b> | Vs. | Income Tax Officer,<br>Ward-5(1)(3),<br>Ahmedabad. |
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| <b>(Applicant)</b> |  | <b>(Respondent)</b> |
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| Assessee by : | Shri Mehul Thakkar, A.R   |
| Revenue by :  | Shri Atul Pandey, Sr. D.R |

सुनवाई की तारीख / **Date of Hearing** : **10/10/2022**  
घोषणा की तारीख / **Date of Pronouncement**: **09/11/2022**

**आदेश/ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals)-5, Ahmedabad, dated 21/11/2019 arising in the matter of assessment order passed under s. 144 r.w.s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2011-12.

2. At the outset, we note that the Ld. CIT(A), confirmed the order of the AO by dismissing the appeal of the assessee in *limine*. As per the Ld. CIT(A), none appeared on behalf of the assessee despite several notices intimating the date of hearing were served upon the assessee through RPAD and email except on one occasion when the assessee sought adjournment dated 11/10/2019. On 11/10/2019 the matter was adjourned to 19/11/2019 but again none appear on behalf of the assessee.

3. It was also observed by the Ld. CIT(A), that there was delay in filing the appeal by 42 days and the assessee failed to justify the delay in filing the appeal within the stipulated time. In view of the above, the Ld.CIT(A), dismissed the appeal of the assessee without adjudicating the same on merit.

4. The Ld. AR before us submitted that on the last date of hearing dated 11-10-2019 the authorized representative, Shri Ketan G. Barevadia CA appeared and the matter was adjourned to 19/11/2019 but the authorized representative failed to appear as on 19/11/2019 due to ill health of his mother. To this effect the Ld. AR has filed an affidavit duly notarized which is placed on record. Thus, it was contended by the Ld. AR that the assessee should not be penalized on account of mistake committed by the authorized representative. The Ld. AR also submitted that there was condonation petition filed for the delay in filing the appeal before the Ld.CIT(A), on the ground that the assessee being agriculturalist was not maintaining books of accounts and other document properly, therefore, it has taken lot of time to collect the relevant document as required in filing the appeal. In this connection, the Ld. AR also submitted that the assessee has sought some information from the department under the RTI. The copy of the same is placed on record. In view of the above, the Id. A.R requested the Bench to refer the issue to the file of the AO for fresh adjudication and further assured to extend full Co-operation during the assessment proceedings.

5. On the other hand, the Ld. DR opposed to condone the delay in filing the appeal by the assessee before the Id. CIT-A.

6. We have heard the rival contentions of both the parties and perused the materials available on record. Considering the circumstances as discussed above which prevented the assessee to file the appeal within the stipulated time before the Id. CIT-A, we are inclined to admit the appeal of the assessee and remit back the same to the file of the AO for fresh adjudication as per the provision of law. It is needless to mention that the assessee shall extend full co-operation during the assessment proceedings. Hence, the ground of appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for the statistical purposes.

**Order pronounced in the Court on 09/11/2022 at Ahmedabad.**

**Sd/-  
(WASEEM AHMED)  
ACCOUNTANT MEMBER**

Ahmedabad; Dated **(True Copy)**  
09/11/2022  
*Manish*