

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted Through Virtual Court)

**Before: Ms. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No. 77/Rjt/2014
Assessment Year 2010-11**

Samast Sorathiya Rabari Samaj, "Jogmaya", Dairy Road, Gandhigram, Junagadh PAN No: AAJTS 8815J (Appellant)	Vs	The Income Tax Officer, Ward-1(1), Junagadh (Respondent)
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**Appellant by : Written Submission
Respondent by : Shri B.D. Gupta, D.R.**

Date of hearing : 15-09-2022
Date of pronouncement : 23-11-2022

आदेश/ORDER

PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-

This appeal is filed by the Assessee against the order dated 15.12.2020 passed by the Commissioner of Income Tax (Appeals)-IV, Rajkot as against the assessment order passed u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2010-11.

2. The brief facts of the case is that the assessee is registered as trust with the Charity Commissioner and is engaged in providing food and room to general public. The source of income of the

trust is from voluntary donations, Corpus donations, fee and interest received from bank. As the assessee has not registered u/s. 12AA of the Act during the Assessment Year 2010-11, the exemption claimed by the assessee was denied and treated the income as revenue receipt and added back to the income of the assessee and demanded tax of Rs. 2,02,168/-.

3. Aggrieved against the same, the assessee filed an appeal before Ld. Commissioner of Income Tax (Appeals). The Ld. CIT(A) dismissed the appeal on the ground that the assessee furnished incorrect information with regard to date of service of the demand notice as 30/05/2003. There is no reason described for the above delay of 51 days in filing the appeal, therefore the Ld. CIT(A) dismissed the appeal as no reasonable cause on the part of the assessee for the delay in filing the appeal.

4. Aggrieved against the same, the assessee filed present appeal before this Tribunal again with the delay of 42 days. Originally this appeal was dismissed on 04/03/2019 for the non-appearance of the assessee as well as non-filing of Affidavit for the delay of 42 days in filing this appeal. However liberty was given to recall this ex-parte order after explaining the reasons for the delay in filing the above appeal. Consequently vide order dated 15/06/2022 in M.A. No. 46/RJT/2019, the above ex-parte order was recalled and the appeal was restored and re-fixed for fresh hearing. The Assessee has filed an Affidavit explaining various reasons for the delay of 42 days in filing the appeal on

the ground of improper guidance by the then Tax Consultant, the Ld. D.R. appearing for the Revenue submitted that there was a delay of 51 days in filing the appeal by the assessee before the Ld. CIT(A) also. The Ld. CIT(A) observed that the assessee furnished willfully incorrect information with regard to date of service of notice of demand as 30.05.2013 instead of 30.03.2013. Further no reasons were ascribed for the delay of 51 days in filing the appeal before the CIT(A). Therefore, the Ld. CIT(A) dismissed the appeal filed by the assessee. Even before the Tribunal there is a delay of 42 days in filing the appeal and the assessee claims the improper guidance by the then Tax Consultant, therefore, the reason given by the assessee are not genuine cause and the delay is not required to be condoned.

5. We have given our thoughtful consideration and perused the material available on record. As rightly stated by the Ld. D.R. the assessee has not given any reasons for the delay that has occurred before the CIT(A). The assessee represented by Bhagu Meraman in his affidavit stated his medical problems also one of the reason for the delay of 42 days in filing the appeal and as stated to enclose medical certificate to that extent. On perusal of entire documents, we do not find any such medical records/certificate filed by the assessee before this Tribunal. The affidavit is also silent about the delay of 51 days in filing the above appeal before the CIT(A). The written submission filed by the assessee deals only with merits of the case and silent about delay in filing appeal before the CIT(A) and also before the ITAT.

As the assessee has not made out the reasonable cause for the delays in filing appeals. We do not find any reason to condone the delay in filing the above appeal either before the Tribunal of 42 days or before the Ld. CIT(A) of 51 days.

6. In the result, the appeal filed by the assessee is hereby dismissed *in limine*.

Order pronounced in the open court on 23-11-2022

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad: Dated 23/11/2022

Tanmay, Sr.P.S.

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आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
राजकोट