

**आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,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.1718/AHD/2017** (AY 2012-13)

(Hearing in Physical Court)

Shri Natwar R Bhardwaj 310, Chandanvan Apartment, B/s Children Hospital, Majura Gate, Surat <b>PAN No. AFVPB 0248 K</b>	Vs	Income Tax Officer Ward-1(2)(3), Aaykar Bhavan, Majura Gate, Surat
<b>अपीलार्थी</b> /Appellant		<b>प्रत्यर्थी</b> /Respondent

निर्धारितकीओरसे /Assessee by	<b>None</b>
राजस्वकीओरसे /Revenue by	Shri Vinod Kumar, Sr-DR
सुनवाई की तारीख/Date of hearing	07.12.2022
उद्घोषणा की तारीख/Date of pronouncement	07.12.2022

**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 Id. Commissioner of Income-tax (Appeals)-2 Surat [for short to as "Ld. CIT(A)"] dated 02.01.2017 for the assessment year 2012-13, which in turn arises out of assessment order passed by Assessing Officer under section 143(3) of Income Tax Act, 1961 (hereinafter referred to as 'the Act' for the sake of brevity) on 23.03.2015. The assessee has raised the following grounds of appeals:-

*"1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals)*

*has erred in confirming the action of Assessing Officer in making addition of Rs.43,82,910/- as unexplained advances.*

*2. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.29,70,000/- as unexplained unsecured loans u/s 68 of I.T. Act.*

*3. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.98,571/- u/s 50C of I.T. Act.*

*4. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of Assessing Officer in making disallowance of Rs.1,23,300/ being 30% of total salary expenses.*

*5. It is therefore prayed that above additions made by Assessing Officer and confirmed by Commissioner of Income-tax (AOs) may please be **deleted.**"*

2. On perusal of record, it reveals that Ld. CIT(A) passed the impugned order on 02.01.2017, however, the present appeal is filed by assessee on 11.07.2017, thus there is delay of 123 days in filing appeal before Tribunal. On further perusal of record, we find that a defect memo was issued to assessee, intimating the delay of 123 days in filing of appeal before Tribunal. The assessee has filed application for condonation of delay vide application dated 05.07.2017. In

application for condonation of delay, the assessee has contended that assessee has received order of Ld. CIT(A) on 09.01.2017 and he handed over the documents to his Ld. Counsel, who was representing assessee's case before Ld. CIT(A). The said Ld. counsel mis-placed the assessment order, therefore, the assessee was unable to file appeal within the prescribed period of limitation. Thereafter, the assessee contracted his present representative who obtained copy of assessment order from the office of Ld. CIT(A) therefore the appeal was filed before the Tribunal. The assessee in his application prayed for condoning the delay.

3. Today, when the case was taken up for hearing, none appeared on behalf of assessee nor filed any adjournment application. The appeal was filed on 11.07.2017 and assessee was seeking dates through his Ld. counsel on one ground or other. On perusal of record it shows that Ld. counsel who was representing on behalf of assessee has already placed application for permission to withdraw their authority letter, on the plea that they have sent numerous letters to assessee as well as instructing Chartered Accountant to provide information and details, however, no

such details and information is provided to Ld. counsel of assessee. The Ld. counsel has already intimated the assessee about the withdrawal of authority letter vide letter dated 26.11.2022 sent through Courier and copy of received is already placed on record. Under such circumstances, we have no option but to submission of Ld. Senior Departmental Representative (Ld.Sr-DR) for the Revenue to decide the application as well as appeal of assessee on the basis of materials available on record.

4. We have heard the submissions of Ld. Sr-DR for the Revenue. The ld Sr DR for the revenue submits that assessee is habitual in not making compliance. The assessee has not made compliance on various notices issued by Ld. CIT(A) which is recorded in para-6.1.1 of the impugned order. The Ld. Sr-DR for the Revenue submits that in the application for condonation of delay, the assessee has not shown sufficient cause. The assessee has simply pleaded that documents were handed over to his previous Ld. counsel from whom such documents were misplaced and name of such person is not disclosed. Thus, the assessee has prepared a vague story. There is inordinate

delay of more than four months and the assessee failed to show his reasonable record. Therefore, application for condonation of delay may be dismissed.

5. We have heard the submissions of learned Senior Departmental Representative (Sr-DR) for the Revenue and have gone through the orders of lower authorities carefully. We find that even before Ld. CIT(A) the assessee has not made proper compliance against various notices issued. Thus, we find that on merit of the submission made by Ld. Sr-DR that assessee is negligent in making such compliance of various notices. In filing appeal before Tribunal, the assessee filed his appeal belatedly that is after more than four months of period of limitation, the assessee has taken vague plea that his earlier counsel has mis-placed the assessment order and name of such person is not disclosed by assessee. The assessee has not supported the averment of his application for condonation of delay by filing his own affidavit or affidavit of such person who lost / mis-placed the assessment order/ record. Thus in absence of sufficient cause, we find no reason to condone the delay. Resultantly, application for condonation of delay is dismissed. Thus,

appeal of assessee is not admitted, resultantly appeal of assessee is dismissed.

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

Order pronounced in the open court on 07/12/2022 and the result was also placed on the Notice Board.

Sd/-

**(Dr ARJUN LAL SAINI)**

**[लेखा सदस्य/ACCOUNTANT MEMBER]  
MEMBER]**

Surat, Dated: 07/12/2022

*Dkp. Out Sourcing Sr.P.S*

Copy to:

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

// True Copy //

Sd/-

**(PAWAN SINGH)**

**[न्यायिक सदस्य JUDICIAL**

By order

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