

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT**

*(Conducted Through Virtual Court)*

**BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER  
AND  
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

**ITA No.12/RJT/2022  
Assessment Year :2011-12**

Shri Chetankumar Pragjibhai Rabadiya 115-Umiya Plot Vistar A/P : S. Sanala, Morbi. PAN : ALUPR 8308 P	Vs.	ITO, Ward-1 Morbi.
---	-----	-----------------------

<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/(Respondent)</b>
-------------------------------	--	--------------------------------

Assessee by :	None
Revenue by :	Shri B.D. Gupta, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : 13/03/2023  
घोषणा की तारीख /**Date of Pronouncement**: 22/03/2023

**आदेश/O R D E R**

**PER ANNAPURNA GUPTA, ACCOUNTANT MEMBER**

Present appeal has been filed by the assessee against order passed by the Id. Commissioner of Income-Tax(Appeals)-3, Rajkot [hereinafter referred to as "Ld.CIT(A)under section 250(6) of the Income Tax Act, 1961 ("the Act" for short) dated 29.11.2019 pertaining to the Asst.Year 2011-12.

2. At the time of hearing none came present on behalf of the assessee despite service of notice nor any application seeking adjournment was filed before us. Even in the past when the appeal was listed for hearing on four occasions, twice an application seeking adjournment was filed on behalf of the assessee by his

alleged legal representatives though there is no power of attorney on record, granted by the assessee in favour of any authorized person to represent his case. On the other occasions none came present for the assessee. The assessee it appears is not interested in pursuing his appeal and therefore the matter was proceeded to be adjudicated *exparte*.

3. The Registry, we have noted, has notified that the appeal of the assessee is barred by limitation by 707 days. The assessee has filed an application for condonation of the delay with an affidavit. The affidavit was not filed in original but only a photocopy was filed. Be that so, the contents of the application read as under:

*“I, Chetan Kumar Pragjibhai Rabadiya, 115-Umiya Plot Vistar, Sanala, Morbi, PAN ALURP 8308 P do hereby solemnly declare and affirms as under:*

*1. That order u/s. 250 was passed by Id. CIT (Appeal), Rajkot on 29.11.2019, which was served on me 23.12.2019 confirming order u/s. 143(3) passed by Id. Income Tax Officer, Ward 1, Morbi.*

*2. That said order was served on me on 23.12.2019*

*3. That appeal against said order is required to be filed before hon. Income Tax Appellate Tribunal on or before 21.02.2020, however said appeal is not filed and got delayed by 703 days.*

*4. The said delay is occurred due to fact that I have huge financial dues on me and got absconded from Morbi and also due to Covid-19 my business got shut down. Since there was immense pressure from lender, I went out of Morbi. When my financial position got improved and I have settled with lenders, I come back.*

*5. In the meantime the appeal to be filed before hon. ITAT, Rajkot Bench got delayed*

*6. Hence, delay caused in filing appeal before hon. Income Tax Appellate Tribunal is not intentional or with any malafide intent but due to my adverse financial circumstances.”*

4. The learned DR, objected to the plea for condonation of delay for the aforesaid reasons, pointing out that there was no plausible reason for the condonation of delay in this case, and that the non

compliant and uncooperative attitude of the assessee before us deserved no leniency in the matter of condonation of delay.

5. A perusal of the above application shows that the reasons narrated therein for the delay are vague, general and totally unsubstantiated. The assessee had cited compelling adverse situation in his business for the delay, but there is no timeline mentioned explaining the period of delay nor any evidence substantiating this plea of adverse business circumstances prevailing. The huge delay in the present case of 707 days can only be condoned if the assessee is able to demonstrate that it was prevented by sufficient cause from prosecuting his case. Since the assessee has failed to make out a case that there was sufficient cause for delay in filing the appeal, and no material proof has been placed before us to consider the cause of the impugned delay in filing the appeal, the application for condonation of delay is, accordingly, rejected. As a consequence, the appeal of the assessee is dismissed as un-admitted.

6. In the result, the appeal of the assessee is dismissed as un-admitted.

**Order pronounced in the Court on 22<sup>nd</sup> March, 2023 at Ahmedabad.**

*Sd/-*

**(T.R. SENTHIL KUMAR)  
JUDICIAL MEMBER**

*Sd/-*

**(ANNAPURNA GUPTA)  
ACCOUNTANT MEMBER**

Ahmedabad, dated 22/03/2023

*vk\**