

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH (SMC), SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 200/Srt/2023 (Assessment Year 2010-11)  
(Physical hearing)

Vrajendra Jagjivandas Thakkar, 6/2060-61, Office No. 107, Vedant Building, Bholabhai Ni Sheri, Mahidharpura, Surat. <b>PAN No. AABPT 5930 B</b>	Vs.	I.T.O., Ward 2(3)(8), Aayakar Bhawan, Majura Gate, Surat.
Appellant/ assessee		Respondent/ revenue

Assessee represented by	Shri P.M. Jaggasheth, CA
Department represented by	Shri Vinod Kumar, Sr. DR
Date of Institution of Appeal	23/03/2023
Date of hearing	03/05/2023
Date of pronouncement	03/05/2023

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the assessee is directed against the order of learned National Faceless Appeal Centre, Delhi (NFAC)/Commissioner of Income Tax (Appeals) (in short, the Id. CIT(A)) dated 13/02/2023 for the Assessment Year (AY) 2010-11. The assessee has raised following grounds of appeal:

- “1. On the facts and in the circumstances of the case as well as law on the subject, the learned commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in re-opening the assessment u/s.147 of the Act and issuing notice u/s.148 of the Income Tax Act.*
- 2. On the facts and in the circumstances of the case as well as law on the subject, the learned commissioner of the Income Tax (Appeals) has erred in confirming the action of the Assessing Officer in making addition of Rs. 1,56,363/- on account of purchase treated as alleged bogus purchase.*
- 3. On the facts and in the circumstances of the case as well as law on the subject, the learned Commissioner of the Income Tax (Appeals) has not offered*

*opportunity to submit application for condonation of delay petition and passed the order on account of the late filing of appeal.*

4. *It is therefore prayed that the above penalty may please be deleted as learned members of the tribunal may deem it proper.*
5. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal."*

2. At the outset of hearing, the learned Authorised Representative (Id. AR) of the assessee submits that the Id. NFAC/CIT(A) dismissed the appeal of assessee by taking a view that the assessee filed appeal beyond the period of limitation. The Id. AR of the assessee submits that the assessee made various submissions and tried to persuade/convince the Id. CIT(A) that the appeal was filed within period of limitation. The Assessing Officer passed the assessment order on 23/03/2016, the assessee filed appeal before the Id. CIT(A) in physical form on 15/04/2016 i.e. within period of limitation. Copy of acknowledgment is also filed showing the receipt of filing of appeal. The Id. AR for the assessee further submits that May, 2016 was the period when filing of appeal electronically, was introduced and tax payer were facing difficulty in filing appeal electronically. The CBDT issued Circular No. 20/2016 dated 26/05/2016 enabling the tax payer to file such appeal within extended period up to 15/06/2016. The assessee filed appeal electronically on 11/06/2016, thus, the assessee filed appeal within the period of limitation. The Id. AR of the assessee also furnished copy of Circular No. 20/2016 and prayed that the matter may be restored to the file of Id. CIT(A) and be directed to decide the appeal on merit.

3. On the other hand, the learned Senior Departmental Representative (Id.Sr.DR) for the revenue submits that the Bench may make appropriate decision on the basis of material before the Tribunal.
4. I have considered the submissions of both the parties and perused the material on record. I find that the Assessing Officer passed the assessment order on 23/03/2016 and the assessee has filed the appeal before the Id. CIT(A) on 15/04/2016 in physical form i.e. with the time period for filing appeal before first appellate authority. I find that the CBDT had issued Circular No. 20/2016 dated 26/05/2016 enabling the tax payer to file appeal within extended period up to 15/06/2016. In the present case, the assessee filed appeal electronically on 11/06/2016, therefore, the appeal filed by the assessee is within the period of limitation, therefore, there is no delay in filing appeal before Id CIT(A)/NFAC. Hence, the dismissal of appeal by Id CIT(A) is not justified. Therefore, the order of Id. CIT(A) is set aside and all the grounds of appeal raised by the assessee are restored back to the file of Id. CIT(A)/NFAC to decide all the grounds of appeal afresh and in accordance with law. Needless to direct that before passing the order, the Id. CIT(A) shall grant reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and not to cause further delay and seek adjournment without any valid reason and to furnish all the details and his submissions on various grounds of appeal

raised by him, as soon as possible, if so desired without any further delay.

In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

5. In the result, this appeal of assessee is allowed for statistical purposes only.

Order announced in open court on 3<sup>rd</sup> May, 2023.

Sd/-  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 03/05/2023

*\*Ranjan*

Copy to:

1. Assessee –
2. Revenue –
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat