

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT
(Conducted through E-Court at Ahmedabad)**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

**ITA No.140/RJT/2023
Assessment Year: 2016-17**

Jagdishchandra Shantilal Chhatralia, B-1002, Orchid Sky, Club 07 Road, Near Sky City, Shela, Sanand, Ahmedabad – 380 058. [PAN – ABEPK 0301 K] (Appellant)	Vs.	Income Tax Officer, Ward – 2(2)(3), Rajkot . (Respondent)
Assessee by	None	
Revenue by	Shri Shakeel Ansari, Sr. DR	
Date of Hearing	28.11.2023	
Date of Pronouncement	29.11.2023	

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the Assessee against order dated 15.03.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2016-17.

2. The Assessee has raised the following grounds of appeal :-

- “1. *The grounds mentioned hereunder are without prejudice to one another. On facts and circumstances of the case and in law, the Ld. CIT(A) has erred in quashing the proceedings under section 143(3) of the Act in the case of the assessee.*
2. *The Ld. CIT(A) Rajkot has erred in law by rejecting delay Condon application filed by the appellant which is not done in right perspective therefore considering the totality of facts, deeming it appropriate to set aside this case back to the file of the CIT(A) to be adjudicated afresh in accordance with law after providing due and reasonable opportunity of being heard to the assessee.*

3. *The Ld. CIT(A) has erred in law by making addition of Rs.11,21,000/- under Section 143(3) of the IT Act 1961 without considering the facts of the case, which the appellant craves to be deleted.*
4. *On the facts and circumstances of the case and in law, the Ld. CIT(A) ought to have upheld the order of the AO considering the merits of this case, which has not been discussed.*

3. At the time of hearing, none appeared on behalf of the assessee but there is a Paper Book filed by the assessee alongwith affidavit explaining the delay in filing the appeal before the CIT(A). The same is taken on record alongwith Paper Book which is submitted before the Lower Authorities as well. The assessee is a resident individual and the main source of income is salary income. The assessee filed return of income on 28.06.2016 declaring total income of Rs.4,55,900/-. The case was selected for scrutiny and statutory notice was served upon the assessee. In response to the show cause notice, the assessee filed return of income for A.Y. 2016-17 and bank statements of State Bank of India, Upleta and Union Bank of India, Upleta online. The Assessing Officer issued notice under Section 133(6) of the Act but Union Bank of India wherein the assessee deposited cash. Since the assessee has not availed any opportunity as per the observation of the Assessing Officer, the Assessing Officer passed assessment order dated 20.12.2018 thereby making addition of Rs.11,21,000/- as unexplained cash deposit.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. DR relied upon the Assessment order and the order of the CIT(A).

6. We have heard the Ld. DR and perused all the relevant material available on record. It is pertinent to note that the CIT(A) has dismissed the appeal on the ground of delay of 191 days for filing the appeal before the CIT(A). The CIT(A) has not decided the appeal on merit. After taking cognisance of the affidavit filed before us by the assessee, it appears that the assessee has a genuine reason for filing the delayed appeal before the CIT(A) as the professional who was representing the assessee's case has not followed up the case and after receiving the penalty order under Section 271(1)(c) of the Act the assessee has to arrange for new professional. The assessee should not be solely held responsible for the delay and, therefore, in the interest of justice, we are condoning the delay in filing the appeal before the CIT(A). We further

direct the CIT(A) to adjudicate the issues contested by the assessee before the CIT(A) on merit. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice.

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

Order pronounced in the open Court on this 29th November, 2023.

Sd/-
(WASEEM AHMED)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 29th day of November, 2023

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Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Rajkot Bench, Rajkot*