

IN THE INCOME TAX APPELLATE TRIBUNAL

“SMC” BENCH, AHMEDABAD

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &

Ms. MADHUMITA ROY, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 1050/Ahd/2023

(निर्धारण वर्ष / Assessment Year : 2017-18)

Sugandh Sahil Gupta D-145/146, Ramnagar Kaliyabid, Bhavnagar, Gujarat - 364001	बनाम/ Vs.	The Income Tax Officer Ward - 1(5), Bhavnagar
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AFGPL1612Q		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri P. B. Parmar, AR
प्रत्यर्थी की ओर से /Respondent by :	Shri C S Sharma, Sr. DR

Date of Hearing	21/02/2024
Date of Pronouncement	28/02/2024

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed at the instance of the assessee is directed against the order dated 26.09.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi, arising out of the order dated 23.12.2019 passed by the ITO, Ward - 1(5), Bhavnagar, under Section 143(3) of the Act for Assessment Year 2017-18.

2. Appeal is time barred by 19 days. An application alongwith affidavit explaining such delay has also been filed by the appellant. The contents whereof is as follows:

- “1. The order passed by the learned Commissioner of Income-tax (Appeals) for Assessment Year 2017-18 was received by me on 26.09.2023 and therefore, appeal before Your Honors was required to be filed on or before 25.11.2023. However, the appeal came to be filed on 14.12.2023 and thus, there is a delay of 19 days in filing the appeal before Your Honors. The reasons for the said delay are:
- a) The impugned order passed by the Ld. CIT(A) was received by me and I was to hand over the appellate order to the concerned Chartered Accountant for filing an appeal against the same before Hon'ble ITAT. However, inadvertently and due to oversight, I forgot to pass on such order to the Chartered Accountant.
 - b) Upon inquiry by the concerned Chartered Accountant somewhere in first week of December, 2023 about the status of appeal, I realized that the impugned order was not passed on to him for filing an appeal before Your Honors. Upon such facts coming to my knowledge, the impugned order was immediately forwarded to the concerned Chartered Accountant who, in turn, forwarded the same to the concerned Advocate. Thereafter, the advocate prepared Form No.36 and forwarded the same for signature. Shortly thereafter, the present appeal came to be filed. In the mean-time, there occurred some delay in filing appeal.
2. Under the circumstances stated above, the delay in filing the appeal is on account of reasons stated hereinabove. Hence, it is prayed to Your Honors that there is good and sufficient reason to condone the delay and therefore the delay in filing the appeal may kindly be condoned and the appeal may kindly be decided on merits.

I, Sugandh Sahil Gupta, the above named deponent, do hereby verify that the contents of aforesaid paras of this affidavit are true to my personal knowledge; nothing has been concealed and no part of it is false. So help me God.”

3. Having heard the Ld. Counsels appearing for the parties and having regard to the facts and circumstances, particularly the explanation rendered by the appellant as reproduced hereinabove which seems to be genuine, we condone the delay in preferring the appeal before us.

4. We have heard the rival submissions made by the respective parties on the merits of the matter and we have also perused the relevant materials available on record.

5. The appellant has challenged an ex parte order passed by the NFAC, Delhi, whereby and whereunder, the addition made by the Ld. AO to the tune of Rs.25,80,000/- as unexplained cash credit under Section 68 of the Act has been confirmed. At the time of hearing of the instant appeal, Ld. Counsel appearing for the appellant submitted before us that it is a fact that the appellant was served with three notices but the appellant could not appear before the First Appellate Authority, since, he was not having the evidences to be adduced before him which was germane to the issue of cash deposit involved in the matter and was practically gathering those documents. He, therefore, prays for a further opportunity of being heard by the Ld. AO to enable him to represent the appellant's case in its proper spirit. Certain additional evidences have also been filed before us by way of an application made by the appellant which are also prayed to be considered by the authorities below for proper adjudication of the issue. Such prayer made by the Ld. AR has not been controverted by the Ld. DR with all his fairness.

6. Having heard the Ld. Counsels appearing for the parties and having regard to the facts and circumstances of the case, we upon admitting these additional evidences find it fit and proper to provide further opportunity of being heard to the appellant on the

proposed addition by the Ld. AO. In this regard, the appellant is also directed to furnish all the documents as asked for by the Ld. AO or Ld. CIT(A) before the Ld. AO, who is further directed to finalise the issue upon hearing the appellant and upon considering the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter. We also make it clear that in the event the assessee fails to co-operate with the Ld. AO, the authority will be at liberty to pass order strictly in accordance with law.

7. In the result, the appeal preferred by the assessee is allowed for statistical purposes.

This Order pronounced on 28/02/2024

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad; Dated 28/02/2024
S. K. SINHA

Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

True Copy

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad