

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “ D ” BENCH**

**Before: Smt. Annapurna Gupta, Accountant Member
And Shri T.R. Senthil Kumar, Judicial Member**

**ITA No:93/Ahd/2023
Assessment Year: 2012-13**

Hamirbhai Savjibhai Baraiya, Uparkot, Near Primary School, Akwada, Bhavnagar-364002. PAN: ANOPB8695F (Appellant)	Vs	The Income Tax Officer, Ward-1(8), Bhavnagar (Respondent)
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**Assessee Represented: Shri Umedsingh Bhati, with
Shri Abhimnayu Singh Bhati ARs
Revenue Represented: Shri Purushottam Kumar, SR-DR**

Date of hearing : 25-04-2024
Date of pronouncement : 30-04-2024

आदेश/ORDER

PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER

This appeal is filed by the assessee as against the appellate order dated 14.12.2022 passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as “Ld.NFAC” for short] dismissing the appeal by stating that there is a delay of 31 days and no explanation offered by the assessee for the delay, relating to the Asst. Year 2012-13.

2. The assessee explained before us by way of notortized affidavit filed by his Advocate Shri Pruthvirajsinh M Rathod, as follows:

“...That the assessment order for the A.Yr. 2012-13 dated 14.11.2019 was first time received through an email initiated from Bhavnagar.ITO1.8@incometax.gov.in on 07.12.2019 at 6.12 PM

along-with an intimation letter dated 07.12.2019 informing that issue letter dated 14.11.2019 (i.e. assessment letter) is having Document No. (DIN) 'ITBA/COM/M/17/2019-20/1021879702(1)'. Copies of the screen shot of email and attachments are enclosed herewith. As the above attached assessment order did not contain any DIN, the Id. A.O. vide his intimation letter dated 07.12.2019 had first time attributed the DIN number to the above assessment order.

That portions of three pages of the attached assessment order were not legible and hence I thought to apply for legible copy of the order. Even the uploaded order (was not at designated place/ tab but at different place/ tab and the date of uploading of the order was also not provided) is not legible.

Meanwhile, a legible physical copy of the order was received through post by the appellant on 14.12.2019. However, this assessment order also does not bear any DIN. On receipt of this physical legible copy of the assessment order, I have filed an appeal on 13.01.2020 before the Id. CIT(A) - 6 Ahmedabad and as the complete legible copy of the order was served on 14.12.2019, I had mentioned that appeal is in time.

That as the assessment order was received by us on 07.12.2019 and the appeal before the Id. CIT(A) was filed on 13.01.2020, the appeal is delayed by seven days. This delay occurred due to impression on my part that limitation starts from the receipt of legible copy of the assessment order.

That, I have prepared this affidavit ascertaining a few facts from my client Shri Hamirbhai Savjibhai Baraiya. The above facts are true and correct as per my information and this affidavit is being executed by me for filing the same before the Hon'ble ITAT, Ahmedabad in connection with the pending appeal ITA 93/AHD/2023..."

3. The Ld.Counsel submitted that NFAC, had literally provided only two opportunities of hearing dated 14.11.2021 and 24.11.2022 and wrongly dismissed the appeal as time barred without affording proper opportunity of hearing to the assessee to explain that there is no delay in filing the appeal before NFAC. In fact, the assessee has also challenged by way of Additional Ground before this Tribunal

that the Assessment Order is without DIN Number, therefore the entire assessment proceedings as invalid in Law.

4. We have given our thoughtful consideration and perused the Affidavit filed by the Assessee Counsel and we are satisfied with the reasons stated therein and thereby we hold that there is no delay in filing the appeal before Ld. NFAC.

5. The Ld Counsel also filed before us, Additional Ground that the Assessment Order is without DIN Number and the entire assessment is liable to be quashed. This Additional Ground is not entertained by us at this stage, since we deem it fit to set-aside the matter back to the file of the Ld. NFAC to consider the appeal on merits and then pass order in accordance with law, after considering the materials placed by the assessee. Needless to say, the assessee should file all relevant materials before Ld. NFAC for passing order on merits. Hence, the appeal filed by the assessee is allowed for statistical purpose.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 30-04-2024

Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER True Copy

Sd/-
(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad : Dated 30/04/2024

Manish

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

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

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad