

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "C" BENCH

**Before: Smt. Annapurna Gupta, Accountant Member  
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No. 279/Ahd/2024  
Assessment Year 2017-18**

Noormahmedbhai Hajibhai Momin, 501, Thakor Vas, Shela, Sanand, Gujarat-380058  <b>PAN: BCXPM0462Q (Appellant)</b>	Vs	The ITO, NFAC, Delhi  <b>(Respondent)</b>
---	----	--

**Assessee Represented: Shri Parin Shah, A.R.  
Revenue Represented: Shri Ashok Kumar Suthar, Sr.D.R.**

Date of hearing : 26-06-2024  
Date of pronouncement : 28-06-2024

**आदेश/ORDER**

**PER : SIDDHARHTA NAUTIYAL, JUDICIAL MEMBER:-**

This is an appeal filed by the assessee against the order of National Faceless Appeal Centre (NFAC), Delhi, in proceeding u/s.250 vide order dated 05/02/2024 passed for the Assessment Year 2017-18.

2. The assessee has raised the following Grounds of Appeal:

*Upon the circumstances and facts of the case and on legal and other grounds the learned CIT(A) has erred in dismissing the appeal on the sole ground of no sufficient or good reason for condoning inordinate delay of*

*more than 192 days as barred by limitation ignoring the reasons furnished at the appeal filling stage. The specific grounds are as under.*

*1.1 On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income-Tax (Appeals) has erred in dismissing the appeal as he could not make out sufficient or good reason for delay in filling appeal even though your appellant claimed that no order was served on communication residence address. Moreover, the fact as to whether order was served on e-mail communication at the address of jagdishrathod1437@gmail.com was not known as it did not belonged to appellant was not cognizance from departmental taken authorities.*

*1.2 On the facts and in circumstances of the case as well as law on the subject, learned Commissioner of Income-Tax (Appeals) did not gone into merit of the case where public documents in form of conveyance deeds of purchase and sale of agriculture land were available before the Assessing Officer and thereby disallowed cost of acquisition. Your appellant pleaded that if sale of capital asset is taxed, then cost of purchase can't be ignored.*

*1.3 That the order passed u/s 147 r.w.s. 1448 of the Income Tax Act, 1961 on 01.05.2023 and upheld by the Ld. CIT(A) on 05.02.2024, was perverse to the law and to the facts of the case, because insufficient opportunity (hearing dates 10/01/23 & 23/01/23) was granted to the appellant and there was no application of mind by AO in disallowing claim of deduction u/s.54B of the Act ignoring public documents.*

*1.4 That the order appealed against is contrary to the facts, law and principles of natural justice and in any view of the matter deserves to be quashed as AO overlooked the public documents since appellant was not in knowledge of the order being illiterate and earning livelihood from agriculture activity alone.*

3. The brief facts of the case are that the assessing officer received information through INSIGHT Portal regarding sale of immovable property by the assessee and non-filing of return by the assessee for the impugned assessment year. As per information available with the assessing officer, the assessee had sold immovable property valued at Rs.3,60,00,000/- on 14/10/2016 in which assessee's share was 16.667% amounting to Rs.60,00,000/-. The

assessing officer issued notice u/s. 147 of the Act, in response to which the assessee filed return of income on 13/01/2023 declaring total income of Rs.2,86,930/-. The assessing officer observed that the assessee had claimed deduction u/s. 48 and 54B of the Act against the sale of immovable property, totaling to Rs.59,73,063/-. However, the assessing officer was of the view that during the course of assessment proceedings, the assessee has failed to submit supporting documentary evidences regarding cost of acquisition and purchase of agricultural land for which deduction u/s. 54B of the Act was claimed by the assessee despite sufficient opportunities having been granted to the assessee. Accordingly, the assessing officer disallowed the claim of deduction u/s. 48 and Section 54B of the Act claimed by the assessee, totaling to Rs.59,79,063/- and added the same to the income of the assessee.

4. In appeal, ld. CIT(A) observed that there is a delay of 192 days in filing of the present appeal. However, despite issuance of several notices, the assessee has failed to cause appearance and has not given any sufficient or good reason for delay of 192 days in filing of appeal. Accordingly, ld. CIT(A) dismissed the appeal of the assessee as barred by limitation. The Ld. CIT(A) made the following observations while dismissing the appeal of the assessee:

*“There exists no sufficient or good reason for condoning inordinate delays of more than 192 days in filing appeal. Accordingly, this appeal is dismissed as barred by limitation. Accordingly I decline to condone the delay of 192 days, and dismiss this appeal of the appellant as barred by limitation.*

*In view of the above discussion appeal is rendered as inadmissible. Hence stand dismissed.”*

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(A) refusing to condone the delay in filing of appeal before Ld. CIT(A). The Counsel for the assessee submitted that the assessee is residing in rural area and is not conversant with the procedure relating to Income Tax E-proceedings. Further, this being the first year of e-proceedings, the assessee's were facing substantial difficulty in complying with the notices issued by the Department. Secondly, the Counsel for the assessee submitted that the notices were issued by Ld. CIT(A) on an incorrect e-mail id at the address of [jagdishrathod1437@gmail.com](mailto:jagdishrathod1437@gmail.com) and such e-mail id did not belong to the assessee or his Authorized Representative. Therefore, since the assessee did not receive the notices issued by Ld. CIT(A), he did not get adequate opportunity to give an explanation in support of delay in filing of the appeal before Ld. CIT(A). Thirdly, it was contended that the Ld. CIT(A) had only issued two notices of hearing to the assessee and therefore, the assessee did not get adequate opportunity to give any explanation regarding the delay in filing of appeal before Ld. CIT(A). The Counsel for the assessee submitted that the assessee has a good case on merits and in the interest of justice, an opportunity of hearing may be given to the assessee to enable him to present his case on merits.

6. On going through the facts of the instant case, we are of the considered view that in the interest of justice, it is a fit case where the matter may be restored to the file of Ld. CIT(A) so as to enable the assessee to give explanation regarding the reasons for delay in

filing of the appeal and also to be able to present its case on merits along with supporting documents.

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

Order pronounced in the open court on 28-06-2024

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER True Copy**  
**Ahmedabad : Dated 28/06/2024**

**Sd/-**  
**(SIDDHARHTA NAUTIYAL)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद