

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD “SMC” BENCH, AHMEDABAD**

**BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.234/Ahd/2024  
Assessment Year: 2017-18**

Amarabhai Ramjibhai Patel, 01, Arbudanagar Society, Dhanera Vishwakarma Pase, Dhanera, Banaskantha – 355 310. (Gujarat) <b>[PAN – CSRPP 6922 R]</b> (Appellant)	Vs.	The Income Tax Officer, Ward-3, Palanpur. (Gujarat). (Respondent)
Assessee by	Shri Mehul Thakkar, AR	
Revenue by	Shri Ramesh Kumar, Sr. DR	
Date of Hearing	12.08.2024	
Date of Pronouncement	19.09.2024	

**ORDER**

This appeal is filed by the assessee against order dated 06.12.2023 passed by the CIT(A), National Faceless Appeal Centre (NFAC), Delhi for the Assessment Year 2017-18.

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

- “1. The Ld. Commissioner (Appeals) National Faceless Appeal Centre, Delhi has erred in dismissing the appeal of the appellant and rejecting the request for condonation of delay without considering the totality of the fact of the case.*
- 2. The Ld. Commissioner (Appeals) National Faceless Appeal Centre, Delhi has erred in not disposing the following grounds raised before him.*

**Ground No: 01**

*That on the facts and in the circumstances of the case and as per law, learned Assessing Officer erred in estimating the net profit at Rs.8,00,000/- against net profit of Rs.6,20,605/- as disclosed as per Audited books of accounts.*

**Ground No: 02**

*That learned Assessing Officer failed to provide any basis or reason for estimating the net profit at Rs.8,00,000/-. Rejection of books of accounts is, therefore, not sustainable and accordingly additions of Rs.1,79,395/- is deserves to be deleted.*

**Ground No: 03**

*That on the facts and in the circumstances of the case and as per law, learned Assessing Officer erred in making additions of Rs.31,10,750/- being aggregate of cash deposits in bank account during the year under consideration.*

**Ground No: 04**

*That learned Assessing Officer was ought to have considered the fact that appellant was in the business of retail trading of Milk and cash deposits, on various dates, were out of cash on hand available as per Cash book in which cash receipts from sale proceeds were duly recorded. Hence, cash deposits aggregating to Rs.31,10,750/- were out of disclosed sources of income and accordingly additions of Rs.31,10,750/- is deserves to be deleted.*

**Ground No: 05**

*That on the facts and in the circumstances of the case and as per law, learned Assessing Officer erred in treating the Agricultural income of Rs.5,20,170/- as income from unexplained sources.*

**Ground No: 06**

*That learned A.O. had no jurisdiction to determine tax liability as per higher rate of tax provided under Section 115BBE of the Act.”*

3. Return of income was filed by the assessee on 24.03.2018 declaring total income of Rs.82,870/-. During the year under consideration, the assessee disclosed income from sale of Milk. Return was processed under Section 143(1) of the Income Tax Act, 1961 and notice under Section 143(2) of the Act dated 09.08.2018 was issued to the assessee. Notices under section 142(1) of the Act was issued on various dates, but the assessee did not furnish any details. Since the assessee has not produced any details, the Assessing Officer has passed Assessment Order under Section 144 of the Act and made addition of Rs.1,79,395/- in respect of undisclosed Net Profit, addition of Rs.31,10,750/- in respect of cash deposits and addition of Rs.5,20,170/- in respect of agricultural income as unexplained.

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. AR submitted that since the assessee was an agriculturist and was not aware about the assessment proceedings could not represent his case before the Assessing Officer and was not able to follow up the case before the CIT(A) through its Authorised Representative. The CIT(A) has dismissed the appeal on the basis of delay stating that there is a delay of 725 days but as the assessee is an agriculturist and is not knowing the intricacies of law, could not file the appeal before the CIT(A) within the stipulated time. The Ld. AR submitted that the delay in filing appeal before the CIT(A) may be condoned. The Ld. AR further submitted that the assessee has filed the additional evidences before the Tribunal and the same may be admitted and the matter may be remanded back to the file of the CIT(A) for proper adjudication of the issues on merit.

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

7. Heard both the parties and perused all the relevant material available on record. The assessee has explained the delay in filing the belated appeal before the CIT(A) due to his ignorance and non-follow up as the assessee is not aware of the intricacies of the assessment proceedings as well as appellate proceedings. At the time of hearing, the Ld. AR submitted that to get the details and evidences in respect of the additions, the assessee required much more time at this juncture, the assessee, therefore, has filed additional evidences before the Tribunal. The delay in filing the appeal before the CIT(A) has been properly explained by the assessee and the same is condoned. The application for additional evidences is allowed and in the interest of justice the matter is remanded back to the file of the CIT(A) for proper adjudication of the issues on merit after taking cognisance of the additional evidences filed before the Tribunal and decide the matter on merits as per Income Tax Statute. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice. It is directed to the assessee that the assessee will take utmost care of hearing before the CIT(A) and explain the case in the stipulated time whenever CIT(A) has called upon for hearing. If the assessee is non-co-operative at the time of hearing

before the CIT(A), the CIT(A) is at liberty to decide the matter on the basis of the additional evidences filed before the Tribunal.

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

Order pronounced in the open Court on this 19<sup>th</sup> September, 2024.

*Sd/-*  
**(SUCHITRA KAMBLE)**  
Judicial Member

**Ahmedabad, the 19<sup>th</sup> day of September, 2024**

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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*  
*Ahmedabad benches, Ahmedabad*