

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT**

I.T.A. Nos.1528 & 1529/Ahd/2024
(Assessment Year: 2018-19)

Monaben Kaushikkumar Joshi, B-303, 3 rd Floor, Silicon Heights, B.No. 257/2 Chiloda, Ahmedabad-382 330 PAN : AHTPJ 2072 P	Vs.	Income Tax Officer, Ward 3(2)(1), Ahmedabad
(Appellant)	..	(Respondent)

Appellant by :	Shri S.N. Divatia, AR
Respondent by:	Shri Ketan Gajjar, Sr DR

Date of Hearing	14.11.2024
Date of Pronouncement	14.11.2024

ORDER

These two appeals have been filed by the assessee against the orders passed by the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi (hereinafter referred to as "CIT(A)" for short), both dated 26.07.2024 passed under Section 250 of the Income-tax Act, 1961 [hereinafter referred to as "the Act" for short], arising out of orders passed by the Assessing Officer u/s 144 and 270A of the Act respectively for Assessment Year (AY) 2018-19.

2. We shall first take-up the appeal filed by the assessee in ITA No. 1528/Ahd/2024.

3. The grounds of appeal taken by the assessee are as under:-

"[1] The Ld. CIT(A), NFAC, Delhi was grievously erred in disallowing u/s. 54 of the IT Act, an amount of Rs. 14,71,850/- by upholding the addition made by the Ld. A.O. Asst. Unit, which is incorrect and bad in law.

- 2-

[2] The appellant submits that she is having all the details regarding the purchase and sale of the property. But the Ld. CIT(A) without considering the detailed submission along with all supporting evidences, dismissed the appeal stating that this appeal is dismissed as barred by limitation.

[3] Also the appellant further submits that the appellant has submitted a duly notarized Affidavit for the condonation of delay in filing the appeal but the Ld. CIT(A), NFAC has not considered the same and dismissed the appeal which is illegal and bad-in-law.

[4] The appellant therefore requests your Honour that the addition of Rs. 14,71,850/- made by the Ld. A.O. Assessment Unit, Delhi by upholding the same by the Hon. CIT(A) by dismissing the appeal, should be deleted looking to the merits of the case."

4. In this case it is found that the assessment order has been passed on 28.11.2020 along with service of demand notice to the assessee. Based on the demand notice, the assessee has made payment of 20% of taxes on 16.06.2021, the fact of which is not in dispute. The ld. CIT(A) has dismissed the appeal of the assessee owing to delay in filing of the appeal. The ld. Counsel for the assessee submitted that the assessee was pursuing the filing of appeal before the ld. CIT(A) and was under the impression that his Authorized Representative has duly filed appeal before the ld. CIT(A). It was also submitted that payment of 20% of tax itself proves the intention of the assessee to pursue the matter before the ld. CIT(A), however, the same has not been filed in time owing to the negligence of the Authorized Representative who was supposed to file the appeal before the ld. CIT(A). It was prayed that the negligence of the Authorized Representative cannot prejudice the right of the assessee as the conduct of the assessee has been proved right by paying 20% of the taxes. I find that the submissions of the assessee are acceptable and no prejudice would be caused to the Revenue if an opportunity of being heard is given to the assessee. Hence, the matter

- 3-

is remanded to the Id. CIT(A), with directions to adjudicate the appeal *de novo*, after giving due opportunity of being heard to the assessee.

ITA No. 1529/Ahd/2024

5. Since the quantum appeal has already been remanded to the file of the Id. CIT(A) for *de novo* meritorious adjudication as referred above, the issue of penalty levied u/s 270A of the Act is also set aside and restored to the file of the Id. CIT(A) for adjudication afresh.

6. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

The order is pronounced in the open Court on 14.11.2024

Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated 14/11/2024

btk

आदेश की प्रतिलिपि □ प्रेषित / 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,

True Copy

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