

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ, अहमदाबाद।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" SMC " BENCH, AHMEDABAD

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 1615/AHD/2024  
निर्धारण वर्ष/Asstt. Year: 2013-2014

Dubey Ravi Arunkumar, D-61, Saidham Row House, Mahadev Tekra, Vastral, Ahmedabad-382418.  PAN: AMDPD0681M	बनामVs	The Income Tax Officer, Ward-6(3)(1), Ahmedabad.
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(अपीलार्थी /Appellant)		(प्रत्यर्थी /Respondent)
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Assessee by :	Shri Anil Brahmakshatriya, AR
Revenue by :	Shri N J Vyas, Sr. DR

सुनवाई की तारीख/Date of Hearing : 03/12/2024  
घोषणा की तारीख/Date of Pronouncement: 05/12/2024

आदेश/ORDER

PER SUCHITRA KAMBLE, JM:

The captioned appeal has been filed at the instance of the Assessee against the order dated 31.07.2024 passed by the National Faceless Appeal Centre(NFAC)/CIT(A), arising in the matter of assessment order passed under s. 147 r.w.s 144 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2013-14.

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

1. *In law and on facts & circumstances of the case, the impugned assessment order passed by the AO in bad in law and deserves to be annulled.*
2. *On facts of the case, the Hon'ble CIT(A) has erred in dismissing appeal purely on technical ground of delay in filing the appeal without considering the submission on merits.*
3. *The appellant may please be allowed to alter or add grounds of appeal before or during the course of proceedings before the Hon'ble ITAT.*

3. The assessee is an individual having business of labour contractor and filed his return of income on 02.04.2014, declaring total income of Rs.2,07,455/-. The case was selected for scrutiny and the assessment was finalized u/s.143(3) of the Act. As the assessee has not responded to any of the notice before the AO, the AO made the addition of Rs.4,17,632/-

4. Being aggrieved by the assessment order, the assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A), dismissed the appeal of the assessee.

5. The Ld.AR submitted that the Ld.CIT(A) has dismissed the appeal of the assessee on the ground of delay of 409 days and not deciding the appeal on merits. In fact, there is a delay of only 135 days as the assessee has not received the order within the statutory period, as assessee has changed his address. The assessee's reason for delay in filing the appeal was genuine and the same may be condoned. The Ld.AR further submitted that the assessee could not appeared before the AO, therefore, the matter may remand back to the file of the AO for proper adjudication of the issues.

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

7. We have heard both the parties and perused the material available on record. From perusal of the affidavit filed by the assessee relating to the delay in filing the appeal before the Ld.CIT(A) appears to be genuine and therefore the delay in filing the appeal before the Ld.CIT(A) is condoned. But the fact remains that the AO has passed best assessment order and the assessee through his genuine reason could not file the relevant details before the AO. Therefore, it will be appropriate to remand back this matter to the file of the AO for proper adjudication of the issues as per the Income-tax statute, for verification of the evidences filed before the AO by the assessee. The assessee though have a genuine reason for not appearing before the AO as well as before the Ld.CIT(A), the assessee should have been more cautious about the tax laws and therefore the assessee will pay amount of Rs.2000/- to the "Prime Minister Relief Fund" within a period of 3 weeks from the date of receipt of this order. Needless to say, assessee be given opportunity of hearing by following the principle of natural justice. Hence, the appeal of the assessee is partly allowed for statistical purposes.

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

**Order pronounced in the Open Court on 05<sup>th</sup> December, 2024 at Ahmedabad.**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

(True Copy)

अहमदाबाद/Ahmedabad, दिनांक/Dated 05/12/2024

*Manish, Sr. PS*

आदेश की प्रतिलिपि अग्रेषित/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)-(NFAC)
5. विभागीय प्रतिनिधि, अधिकरण अपीलीय आयकर , राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

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