

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BHAGIRATH MAL BIYANI, ACCOUNTANT MEMBER

ITA No. 1084/Srt/2024 (Assessment Year 2011-12)  
(Hybrid hearing)

Kamlesh Hasmukhlal Gajjar HUF, 401-402, Sai Leela Appartment, Nr. Umrigar School, Umra, Surat-395007. <b>PAN No. AAHHK 7551 H</b>	Vs.	A.C.I.T., Circle-1(3), Surat.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri Akash Bakaswala, A.R.
Department represented by	Shri Mukesh Jain, Sr.DR
Appeal instituted on	23/10/2024
Date of hearing	20/01/2025
Date of pronouncement	20/01/2025

**Order under Section 254(1) of Income Tax Act**

**PER: PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals)/Addl/JCIT(A)-2, Lucknow [in short, the Id. CIT(A)] dated 22/08/2024 for the Assessment Year (AY) 2011-12. The assessee has raised following grounds of appeal:

- “1. That the CIT(A) erred in by passing ex party order confirming addition of Rs. 15,00,000/- of full disclosure under IDS Scheme, 2016.
2. That the CIT(A) erred in by not appreciating fact on record that the assessee has made all payment under IDs Scheme, 2016 within due time and also furnished declaration in Form 3 with challan therefore the reassessment is bad in law and addition made in unwarranted.
3. That the addition of Rs. 15,00,000/- may kindly be deleted or alternatively matter may kindly be set aside to CIT(A).
4. The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of Appeal.”

2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id. AR) of the assessee fairly submits that there is delay of 2 days in filing appeal before the Tribunal. The Id. AR of the

assessee submits that the delay of 2 days is neither intentional nor deliberate but due to miscalculation of time period, which may be condoned. The delay in filing is not inordinate. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue has not opposed the prayer of assessee for condonation of delay. Considering the submissions of both the parties, delay of 2 days in filing before the Tribunal is condoned. Now advertent to the merit of the case.

3. The Id. AR of the assessee submits that the case of assessee was reopened on the basis of information from the office of Pr.CIT-1 that the assessee made disclosure of Rs. 15.00 lacs in Income Tax Declaration Scheme, 2016 (IDS, 2016) but failed to furnish Form-3 showing the payment of due taxes. During reassessment, the assessee furnished Form 1,2, and 3 alongwith copy of Challan for payment of tax in three installments. Further vide letter dated 30/12/2018 to Assessing Officer, the assessee submitted that due to oversight, last installment of September, 2017 was paid by Challan No. 280 by CNN No. 41 with State Bank of India (BSR-0001388) on 26/09/2017 and requested for rectification and to treat the third installment as paid. Such details were forwarded to Id. Pr.CIT-1, Surat for verification vide letter dated 17/12/2018. Thus, the assessee has paid all due taxes in time. The Id. CIT(A) passed *ex parte* order for want of compliance. The Id. AR of the assessee submits that the assessee has made payment in terms of condition of IDS,2016 and matter may be restored back to the jurisdictional Assessing Officer for verification of fact and to allow relief to the assessee. The assessee has also filed Form No. 1,2 and 3 and IDS-2016 alongwith Challan of tax paid alongwith Form-4.

4. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue after hearing the submission of Id. AR of the assessee submits that he has no objection if the matter is restored back to the file of Assessing Officer for verification of fact.
5. We have considered the submissions of both the parties, facts of the case and various details furnished by the Id. AR of the assessee. Considering the categorical submission of Id. AR of the assessee that in terms of condition of IDS, 2016, the assessee has deposited due taxes and Form-3 as well as Form-4 is generated/received by assessee, therefore, the matter is restored back to the file of Assessing Officer to verify the fact and allow relief to the assessee in accordance with law. With this direction, the grounds of appeal raised by the assessee are allowed for statistical purposes.
6. In the result, this appeal of assessee is allowed for statistical purposes.

Order announced in open court on 20<sup>th</sup> January, 2025.

Sd/-  
**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 20/01/2025

*\*Ranjan*

Copy to:

1. Assessee
2. Revenue
3. CIT
4. DR
5. Guard File

By order

Sr. Private Secretary, ITAT, Surat