

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

ITA No. 529/Srt/2024 (Assessment Year 2012-13)  
(Physical hearing)

Shrenikkumar Natvarlal Vora, 1012 New Pashupati Market, Ring Road, Surat-395002 (Gujarat) <b>PAN No. AALPV 6626 N</b>	Vs.	I.T.O., Ward 2(2)(4), Aayakar Bhavan, Surat.
Appellant/ Assessee		Respondent/ Revenue

Assessee represented by	Shri Mehul Shah, C.A.
Department represented by	Shri Mukesh Jain, Sr.DR
Appeal instituted on	08/05/2024
Date of hearing	20/11/2024
Date of pronouncement	28/01/2025

**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 National Faceless Appeal Centre, Delhi (NFAC)/learned Commissioner of Income Tax (Appeals) [in short, the Id. CIT(A)] dated 29/08/2023 for the Assessment Year (AY) 2012-13. The assessee has raised multiple grounds of appeal which in short consists of validity of order passed under Section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (in short, the Act), addition under Section 69 of the Act on account of unexplained investment of Rs. 11,27,715/- and violation of principles of natural justice by not allowing reasonable and sufficient opportunity by the Id. CIT(A).
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 193 days in filing appeal before the Tribunal. Impugned order was passed by the Id. CIT(A) on 29/08/2023, however, this appeal is filed only on

08/05/2024, thus, there is delay of 193 days in filing appeal. The Id. AR of the assessee submits that in Form-35 while filing appeal, the assessee has mentioned e-mail address [pankajvoraappeal@gmail.com](mailto:pankajvoraappeal@gmail.com) and for the purpose of service of notices/communications through e-mail, the assessee opted "No". The Id. AR of the assessee submits that the notices were sent to the return preparer CS Biscuitwala who has not checked the e-mail. The assessee came to know that when the assessee's Chartered Accountant checked ITBA Portal and consulted the present Authorised Representative of the assessee. The Id. AR of the assessee submits that the Id. CIT(A) has passed the order in absence of any submission of assessee and confirmed the addition made by the Assessing Officer on account of unexplained investment. The Id. AR of the assessee submits that the assessee has good case on merit and is likely to succeed if one opportunity is allowed to contest the case on merit. The Id. AR of the assessee submits that the delay is not intentional nor deliberate and may be condoned and the matter may be restored back to the file of Assessing Officer for passing the assessment order afresh.

3. On the other hand, the learned Senior Departmental Representative (Id. Sr. DR) for the revenue has supported the orders of the lower authorities. The Id. Sr. DR for the revenue submits that the assessee was given ample opportunities by the Assessing Officer as well as by the Id. CIT(A). The Id. CIT(A) has allowed nine opportunities as recorded in para 3 of impugned order. The Id. Sr.DR for the revenue submits that the assessee deserve no further leniency. On the plea of condonation of delay, the Id. Sr.DR for the revenue submits that no reasonable explanation is offered by the assessee and delay may not be condoned.

4. In alternative submission, the Id. AR of the assessee submits that if the delay is condoned, it may be condoned with cost only payable to the exchequer/department.
5. We have considered the submissions of both the parties and have gone through the orders of the lower authorities carefully. First we shall consider the plea of condonation of delay, we find that the assessee while filing appeal, provided e-mail address [pankajvoraappeal@gmail.com](mailto:pankajvoraappeal@gmail.com) and at the same time, the assessee opted option "No" for the purpose of service of notice through e-mail. We find that the Id. CIT(A) in para 3.1 of his order recorded that the notices were sent on the e-mail provided as [pankajvoraappeal@gmail.com](mailto:pankajvoraappeal@gmail.com) mentioned on Form-35. We find that the notice under Section 250 of the Act by the Id. CIT(A) was allegedly sent through e-mail against which the assessee has opted option "No". Thus, considering the overall facts and circumstances of the case that the Id. CIT(A) has passed ex parte order in absence of any proper response, therefore, we condone the delay of 193 days in filing appeal before the Tribunal, but on payment of cost of Rs. 10,000/- (Ten thousand only) to be paid to the District Legal Services Authority, Surat within 15 days from the date of receipt of this order. Further considering the fact that the Assessing Officer as well as Id. CIT(A) has passed ex parte order. Before us, the assessee undertook to make proper compliance before the Assessing Officer as and when called for. Therefore, we deem it appropriate to restore the matter back to the file of Assessing Officer to decide the issue afresh in accordance with law. Needless to direct that before passing the order on merit, the Assessing Officer shall grant reasonable opportunity of hearing to the assessee. The assessee is also directed to be more

vigilant in future and in making proper compliance and not to make any default in responding the notices issued by the Assessing Officer. 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 28<sup>th</sup> January, 2025.

Sd/-  
**(BIJAYANANDA PRUSETH)**  
**ACCOUNTANT MEMBER**

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

Surat, Dated: 28/01/2025

*\*Ranjan*

Copy to:

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

By order

Sr. Private Secretary, ITAT, Surat