

**आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**  
**आयकरअपीलसं./ITA No.881/RJT/2024**  
**निर्धारणवर्ष /Assessment Year: 2017-18**

Salimbhai Satarbhai Gajiyani Prop. of Raj Enterprise Opp: High School Station Road, Malia Hatina Junagadh. PAN : AFPPG 1405 F	बनाम Vs.	ITO, Ward-2 Jungadh.
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Assessee by : Shri Chetan Agarwal, Id.AR

राजस्वकीओरसे/Revenue by : Shri Abhimanyu Singh Yadav, Sr-DR

सुनवाईकीतारीख/Date of Hearing : 22/01/2025

घोषणाकीतारीख/Date of Pronouncement : 28/02/2025

**ORDER**

**PERDR. ARJUN LAL SAINI, ACCOUNTANT MEMBER:**

Captioned appeal filed by the assessee, pertaining to assessment year (AY) 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-2, Noida [in short 'Ld.CIT(A)/NFAC'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 30.09.2024, which in turn arises out of an assessment order passed by the Assessing Officer u/s 144 of the Income Tax Act 1961, dated 29.8.2019.



2. Learned Counsel for the assessee, at the outset, argued that appeal filed by the assessee, for the assessment year 2017-18, before the Id. CIT(A) was barred by limitation by 87 days. The assessee stated the reasons for delay, and requested the Id. CIT(A) to condone the delay. The assessee stated that because of the mistake of the tax consultant of the assessee, the appeal could not be filed on time. However, Id. CIT(A) did not condone the delay and dismissed the appeal of the assessee, on account of delay. The Id. Counsel submitted that because of the mistake of the tax consultant of the assessee, the delay of 87 days has occurred, in filing the appeal before the Id. CIT( A), which may kindly be condoned in the interest of justice.

3. The Id. Counsel, further stated that there was non-compliance before the assessing officer, as the assessee did not appear before the assessing officer and did not file the basic documents and evidences before the assessing officer, as these documents and evidences were not available at the time when the proceedings before the assessing officer was going on. Now, the assessee wants to submit these documents and evidences before the assessing officer, therefore, after condoning the delay, the issue may be restored back to the file of the assessing officer for fresh adjudication.

4. On the other hand, the Id. DR for the revenue, argued that assessee has failed to explain the sufficient cause for the delay of 87 days. The assessee should be himself vigilant and should not put a blame on the Tax consultant. Therefore, the delay should not be condoned and appeal of the assessee may be dismissed.

5. We have heard both the parties and duly considered the rival contentions. The Courts and the quasi-judicial bodies are empowered to condone the delay if a litigant satisfied the Court that there were sufficient reasons for availing the remedy after expiry of the limitation. Such reasoning should be to the satisfaction of the Court. The expression "sufficient cause or reason" as



provided in sub-section (5) of section 253 of the Income Tax Act, is used in identical position in the Limitation Act. The expression "sufficient cause" within the meaning of section 5 of the Limitation Act as well as similar other provisions, the ambit of exercise of powers thereunder have been subject-matter of consideration before the Hon'ble Supreme Court on various occasions. In the case of *State of West Bengal v. Administrator, Howrah Municipality* AIR 1972 SC 749 the Hon'ble Supreme Court while considering the scope of expression "sufficient cause" for condonation of delay has held that the said expression should receive a liberal construction so as to advance the substantial justice when no negligence or inaction or want of *bona fide* is imputable to party. The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. The rules of limitation are not meant to destroy the rights of the parties. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. Taking into consideration the overall, circumstances in the assessee's case, and in the larger interest of justice we condone the delay in filing the appeal before learned CIT (A).

6. Since, we have condoned the delay in filing the appeal before Id. CIT(A) and we noticed that assessee has to file fresh documents and evidences before the assessing officer, therefore, in order to avoid the multiplicity, in the proceedings, that is, instead of remitting the matter back to the file of the Id. CIT(A) , the matter should be remitted back to the file of the assessing officer for fresh adjudication. Hence, we accept the prayer of the Id. Counsel for the assessee and set aside the order of CIT(A) and remand the various issues raised by the assessee in the grounds of appeal before CIT(A) for fresh consideration



by the assessing officer with a liberty to the assessee to prove his case by producing sufficient evidence/material to the satisfaction of the assessing officer. For statistical purposes the appeal of the assessee is allowed.

7. In the result the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 28/02/2025

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(DR.ARJUNLAL SAINI)**  
**ACCOUNTANT MEMBER**

राजकोट/Rajkot

दिनांक/ Date: 28/02/2025