

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH (Virtual) JODHPUR**

**BEFORE SHRI RAJPAL YADAV, HON'BLE VICE PRESIDENT AND
DR. MITHA LAL MEENA, HON'BLE ACCOUNTANT MEMBER**

ITA No. 5/Jodh/2024 (A.Y. 2012-13)
ITA No. 6/Jodh/2024 (A.Y. 2013-14)
ITA No. 7/Jodh/2024 (A.Y. 2014-15)
ITA No. 8/Jodh/2024 (A.Y. 2015-16)
ITA No. 9/Jodh/2024 (A.Y. 2016-17)
ITA No. 10/Jodh/2024 (A.Y. 2017-18)
ITA No. 11/Jodh/2024 (A.Y. 2018-19)
ITA No. 12/Jodh/2024 (A.Y. 2019-20)

Adarsh Credit Cooperative Society Ltd., Adarsh Bhawan, 14 Vidhy Vihar Colony, Ashram Road, Usmanpura, Ahmedabad- 380013 PAN No. AAAJA0296J	Vs.	DCIT, Central Circle-1, Udaipur
Assessee by	Shri Saurabh Soparkar, Advocate	
Revenue by	Shri O.P. Meena, CIT- D.R.	
Date of Hearing	03.03.2025.	
Date of Pronouncement	17.03.2025.	

ORDER

PER BENCH:

The bunch of appeals by the assessee is directed against the separate order of the Commissioner of Income Tax (appeal), Jaipur- 5 [hereinafter referred to as "the CIT appeal"] challenging therein rejection of its application for condonation of Deley and consequently dismissal of the appeals as not admitted in violation of principles of natural justice.



2. Considering common issue on identical facts, these appeals were heard together and adjudication by this consolidated order for sake of convenience and brevity. We take the appeal in ITA No. 5/Jodh/2024 in respect with Assessment Year 2012-13, as a lead case for discussion and adjudication of the issue.

3. At the time of hearing the Ld. Counsel of the assessee submitted that Sh. Hirabhai Somabhai Patel (Retd. IAS) was appointed as the official liquidator of Adarsh Credit Co-Operative Society Limited vide order dated 6th December 2018 issued under section 86 of the Multi State Co-operative Societies Act, 2002. However, the Hon'ble Gujarat High Court vide order dated 20th December 2018 in SCA 19619 of 2018 Jamil Ahmed, Director, Adarsh Credit Co-Operative Society Ltd v. Central Registrar, De Abhiluksh Likhi & Anr, ordered status quo to be maintained qua Adarsh Credit Cooperative Society Limited which prevented him from taking charge over the affairs of the Co-operative Society and thereafter the Hon'ble Gujarat High Court in SCA 19619 of 2018 vide order dated 06/09/2019 quashed and set aside his appointment as the official liquidator of Adarsh Credit Co-Operative Society Limited.

3.1 The Ld. AR further submitted that the Central Registrar re-appointed Sh. Hirabhai Somabhai Patel (Retd. IAS) as the official liquidator of Adarsh Credit Co-Operative Society Limited vide order dated 29th November 2019 with intimation to of aforesaid appointment of the Liquidator to Director General of Income Tax (Investigations), Rajasthan vide order dated 29th November 2019 and the new

address i.e. the registered office address of the official liquidator was also informed to the board.

3.4 The AR also stated that the Covid-19 engulfed the country in 2020, and the Hon'ble supreme Court of India vide its order in *Suo Moto Writ P/L. 3/2020* extended the limitation period for filing various appeals up to 2022. He emphasized that the Assessment order was passed under section 144 of the Income Tax Act, 1961, invoking provisions of best judgement, an ex-parte order qua the assessee society where the Assessment order indicated the address as ADARSH PRINTER BHAWAN RAJMATA DHARAMSALA, SIROHI 307001, Rajasthan, India, which was seized to be the registered office after appointment of the Official Liquidator. And thus, the order was never communicated before 2023 to the official liquidator who came to know about the said order only after the Tax Recovery Officer initiated recovery proceedings. As soon as the same came to notice of the Official Liquidator, the appeal was compiled and filed. The AR contended that all these details were furnished before the Ld. CIT Appeal, however, having not satisfied rejected the condonation of delay and dismissed the appeal as not admitted. He requested to condone the delay in filing appeal before CIT Appeal and remand the matter to adjudicate on merits. In support to substantiate the cause of delay, he filed an affidavit of the official liquidator certified by Registered Notary which reads as under:



3-BC
19/09/2024INDIA NON JUDICIAL
Government of Gujarat

IN-GJ59714587427278W



सत्यमेव जयते



Certificate of Stamp Duty

RG. SERIAL No. 986
DATE 09-09-2024
BOOK No. H-1
PAGE No. 162

Certificate No. : IN-GJ59714587427278W

Certificate Issued Date : 09-Sep-2024 01:06 PM

Account Reference : IMPACC (FI)/ gjellmp10/ CITY SRO/ GJ-AH

Unique Doc. Reference : SUBIN-GJGJELIMP1035950761391209W

Purchased by : H S PATEL OFFICIAL LIQUIDATOR ADARSH CREDIT CO OP

Description of Document : Article 4 Affidavit

Description : AFFIDAVIT

Consideration Price (Rs.) : 0
(Zero)

First Party : H S PATEL OFFICIAL LIQUIDATOR ADARSH CREDIT CO OP

Second Party : Not Applicable

Stamp Duty Paid By : H S PATEL OFFICIAL LIQUIDATOR ADARSH CREDIT CO OP

Stamp Duty Amount(Rs.) : 100
(One Hundred only)

MITAL M. SAVALEYA
NOTARY
GOVT. OF INDIA
9 SEP 2024



0017566081

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.stcstamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

✱

1

1

**BEFORE THE HON'BLE INCOME TAX APPELLATE TRIBUNAL
(ITAT)-Jodhpur Bench**

In the matter of Adarsh Credit Co-Operative Society Limited for ITA 5/JODH/2024 to ITA 12/JODH/2024 pertaining to AY 2012-13 to AY 2019-20.

Affidavit explaining the reasons for filling delayed appeals before the Commissioner of Income Tax (Appeals) against the assessment orders pertaining to Assessment Year 2012-13 to 2019-20.



I, Hirabhai Somabhai Patel (Retd. IAS), Official Liquidator of Adarsh Credit Co-Operative Society Limited, aged about 68 years, son of Somabhai Lakhubhai Patel identified by PAN, ACJPP495A presently residing at Address Plot No. 338, Sector No. 8B, CH Road, Gandhinagar, Gujarat-382007 do solemnly affirm and state on oath as under:

- 1) That I was appointed as the official liquidator of Adarsh Credit Co-Operative Society Limited vide order dated 6th December 2018 issued under section 86 of the Multi State Co-operative Societies Act, 2002
- 2) That the Hon'ble Gujarat High Court vide order dated 20th December 2018 in SCA 19619 of 2018 *Jamil Ahmed, Director, Adarsh Credit Co-Operative Society Ltd v. Central Registrar, Dr. Abhilaksh Likhi & Anr.* ordered status quo to be maintained qua Adarsh Credit Co-Operative Society Limited which prevented me from taking charge over the affairs of the Co-operative Society.
- 3) That The Hon'ble Gujarat High Court in SCA 19619 of 2018 vide order dated 06/09/2019 quashed and set aside my appointment as the official liquidator of Adarsh Credit Co-Operative Society Limited.
- 4) That the Central Registrar re-appointed me as the official liquidator of Adarsh Credit Co-Operative Society Limited vide order dated 29th November 2019.

For, Adarsh Credit Co-Op.Society Ltd.

H.S. Patel IAS R.
Liquidator

2

2

- 5) That the assessment order for Assessment Year 2012-13 was served on me at my residence on 07th January 2020 but as I was in the process of taking charge of the operations of Adarsh Credit Co-Operative Society Limited from December 2019 to March 2020, I was unable to file an appeal against the said order within the limitation period prescribed in law.
- 6) That Adarsh Credit Co-operative Society has about 18,50,000 members and due to the burden of postal claims being received from them on liquidation of the society I was unable to file appeal against the Assessment order for Assessment Year 2012-13 within the limitation period prescribed in law.
- 7) That qua the delay in filing of appeal for Assessment Years 2013-14 to 2019-20, the said orders were never served on me at my residence unlike the assessment order for Assessment year 2012-13.
- 8) The assessment orders for the Assessment Years 2013-14 to 2019-20 were served at the branch office of Adarsh Credit Co-Operative Society Limited, located at Adarsh Printer Bnawan, Rajmata Dharamsala, Sirohi 507001. This premise was rented and not under my control or supervision. It was closed following the arrest of Rahul Modi, the former Managing Director & CEO of Adarsh Credit Co-Operative Society Limited, due to non-payment of rent by Adarsh Credit Co-Operative Society Limited since March 2019, due to liquidity issues.
- 9) That the registered office of Adarsh Credit Co-Operative Society Limited was shifted to Ahmedabad at Second Floor, 14 Vidya Vihar Colony, Opposite Hotel Fortune Landmark, Usmanpura, Ahmedabad-380013, Gujarat on 16th September 2015.
- 10) That I did not have access to the portal up to 07th December 2022, at which date I got the credentials of the portal updated and gained access to the Income Tax Portal.
- 11) That I came to know about the assessment orders being passed raising demands against Adarsh Credit Co-Operative Society Limited only on 27th December 2022 when the Tax Recovery Officer sent me a communication vide ITBA/COM/F/17/2022-

For, Adarsh Credit Co-Op.Society Ltd.

H.S. Patel IAS R.
Liquidator



3

3

23/1048271649(1) regarding recovery of dues for Assessment Year 2012-13 to 2019-20.



12) That I replied to the said letter on 3rd January 2023 informing the Tax Recovery Officer to halt any recovery proceedings against Adarsh Credit Co-Operative Society Limited as appeals were being filed against the said assessment orders.

13) That due to the aforesaid reasons there was a delay in filling of appeals before the CIT (Appeals).

14) That I had no intention to jeopardize the interest of the revenue by delaying the filing of the appeal.

VERIFICATION

I, Hirabhai Somabhai Patel, the above-named deponent do hereby verify that the contents of para 1 to 4 are true to the best of my knowledge and the contents of para 5 to 14 are true to the best of my belief.

For, Adarsh Credit Co-Op.Society Ltd.

Place: *Ahmedabad* **H.S. Patel IAS R** *Hirabhai Somabhai Patel (Official Liquidator)*
Date: *09-09-2024* Deponent

9 SEP 2024

RG. SERIAL No. *486*
DATE *09-09-2024*
BOOK No. *H-1*
PAGE No. *163*

SOLEMNLY AFFIRMED
BEFORE ME

Mital M. Savaliya
MITAL M. SAVALIYA
NOTARY
GOVT. OF INDIA

Solemnly affirmed and sworn before me,

MITAL M. SAVALIYA
NOTARY
GOVT. OF INDIA

Place: *Ahmedabad*
Date: *09-09-2024*



[Handwritten signature]

4. The Ld. DR on the other hand, stands by the impugned order.
5. Heard both the sides, perused the material on record, impugned order, written submission and case law cited before us. The Ld. CIT (A) observed that for assessment year 2012-13, assessment order dated 30.12.2019 was served on Sh. H.S. Patel, the official liquidator of the assessee society on 07.01.2020. Thus, the time limit for filing the appeal expires on 06.02.2020 and the appeal was filed on 17.02.2023 with a delay of 742 days before the CIT Appeal in respect of Assessment Year 2012-13 where an ex parte assessment order was passed u/s 144 of the Act by the AO.
6. The Ld. AR argued that after excluding the Covid -19 period in compliance to Judgement delivered by Hon'ble Supreme Court India vide its order in Suo Moto Writ P/L. 3/2020 extending the limitation period for filling various appeals from 15.03.2020 to 28.02. 2022 and further extended period of 90 days from 01.03.2022, the effective net delay in filing the appeal 280 days only. The counsel contended that the Assessment order was passed under section 144 of the Income Tax Act, 1961, invoking provisions of best judgement, an ex-parte order qua the assessee society where the Assessment order indicated the address as ADARSH PRINTER BHAWAN RAJMATA DHARAMSALA, SIROHI 307001, Rajasthan, India, which was seized to be the registered office after appointment of the Official Liquidator. However, the Hon'ble Gujarat High Court vide order dated 20th December 2018 in SCA 19619 of 2018 Jamil Ahmed, Director, Adarsh



Credit Co-Operative Society Ltd v. Central Registrar, De Abhiluksh Likhi & Anr, ordered status quo to be maintained qua Adarsh Credit Cooperative Society Limited which prevented him from taking charge over the affairs of the Co-operative Society and thereafter the Hon'ble Gujarat High Court in SCA 19619 of 2018 vide order dated 06/09/2019 quashed and set aside his appointment as the official liquidator of Adarsh Credit Co-Operative Society Limited.

7. Thus, the observation of the Ld. CIT appeal that assessment order dated 30.12.2019 was served on Sh. H.S. Patel, on assuming charge of the official liquidator of the assessee society on 07.01.2020 is factually incorrect because the order was never communicated before 2023 to the official liquidator who came to know about the said order only after the Tax Recovery Officer initiated recovery proceedings on his assuming charge as Official liquidator legally and the appeal was filed. The case laws relied by the Ld. CIT(A) as referred by the Ld. DR are distinguishable on peculiar facts of the present case.

8. He further argued that the liquidator was in the process of taking charge of the operations of Adarsh Credit Cooperative Society Limited from December 2019 to March 2020, and he was unable to file an appeal against the said order within the limitation period prescribed in law for the aforesaid reasons which are duly supported and substantiated with affidavit of the Liquidator as above. The AR further argued that qua the delay in filing of appeal for Assessment Years



2013-14 to 2019-20, the said orders were never served on the liquidator unlike the assessment order for Assessment year 2012-13. The assessment orders for the Assessment Years 2013-14 to 2019-20 were served at the branch office of Adarsh Credit Co-Operative Society Limited, located at Adarsh Printer Bhawan, Rajmata Dharamsala, Sirohi 307001, and these The premises were rented and not under control or supervision of liquidator. It is also pointed out that premise was closed following the arrest of Rahul Modi, the former Managing Director & CEO of Adarsh Credit Co-Operative Society Limited. due to nonpayment of rent by Adarsh Credit Co-Operative Society Limited since March 2019, due to liquidity issues. It is noted that the registered office of Adarsh Credit Co-Operative Society Limited was shifted to Ahmedabad at Second Floor, 14 Vidya Vihar Colony, Opposite Hotel Fortune Landmark, Usmanpura, Ahmedabad-380013, Gujarat on 16th September 2015 and that liquidator did not have access to the departmental portal as he has no credentials of the portal updated and so as to gain access to the Income Tax Portal.

7. Thus, the official liquidator of the appellant assessee society did not know about the assessment order passed so as to enable him to file appeal before the CIT(A) who has dismissed the appeal of the assessee only on account of a delay in filing of appeal without considering the fact demonstrating the sufficient cause for the delay duly supported with documentary evidence filed before him with the request letter for said delay along with FORM-35.



8. Without prejudice to the above, the Ld. AO passed the assessment order on 30.12.2019 and in the month of March 2020, COVID-19 broke out with lockdown in succession. Resultantly, the net delay in filing the appeal before the Ld. CIT(A) was to be counted to 280 days only, and considering the aforesaid reasons the appellant was prevented by sufficient cause for the delay in filing the appeal before the CIT(A) which the Ld. CIT(A) ought to have condoned and decided the appeal on merits of the case.

9. Considering the factual matrix and judicial precedent, we consider it appropriate to condone the net delay of only 280 days in the case of the assessee society in respect to assessment year 2012-13. Accordingly, the appeal of the assessee is admitted and restored to the file of the Ld. CIT(A) to be adjudicated de novo on merits of the case after affording adequate opportunity of being heard. The appellant undertakes that due compliance will be made during the appellate proceedings.

10. The facts and issue in ITA No. 6 to 12/Jodh/2024 are identical to the facts and issue discussed in ITA No. 5/Jodh/2024 except the variation in days of delay rather less in number in filing appeal before the CIT (A). Therefore, our observation and findings given in the appeal in ITA No. 5/Jodh/2024 shall apply to the other appeals in ITA No. 6 to 12/Jodh/2024, *in mutatis mutandis*, ordered accordingly.



15. In the result, these appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on...17.../...3.../2025 under Rules 34(4) of Income Tax

Appellate Tribunal Ruled.

_____ Sd _____

(RAJPAL YADAV)
VICE PRESIDENT

_____ Sd _____

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Dated :...17.../...3.../2025

Copies to :

- (1) The appellant.
- (2) The respondent.
- (3) CIT
- (4) CIT(A)
- (5) Departmental Representative
- (6) Guard File

By Oder
Assistant Registrar,
Income Tax Appellate Tribunal,
Jodhpur Bench,
Jodhpur.