

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER
आयकर अपील सं./ITA No.1290/SRT/2024

Assessment Year: (2017-18)

(Physical hearing)

Amit Kumar Shah, 63, Ram Nagar Society, Bhestan, Surat-395023 (Gujarat) PAN : CLKPS 7848 P	बनाम Vs	I.T.O., Ward 2(3)(1), Surat
अपीलार्थी/Appellant		प्रत्यर्थी /Respondent

Assessee represented by	Shri Sapnesh Sheth CA
Department represented by	Shri Mukesh Jain- Sr-DR
Date of hearing	10/03/2025
Date of pronouncement	13/03/2025

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 the National Faceless Appeal Centre, Delhi(NFAC)/learned Commissioner of Income Tax (Appeals), [in short, the Id.CIT(A)] dated 10.10.2024 for the Assessment Year (AY) 2017-18. The Id CIT(A) dismissed the appeal of assessee in limine by not condoning delay of 183 days in filing appeal, thereby confirmed the action of Assessing Office (A) in making addition aggregating of Rs.38.58 lacs on account of cash deposit during demonetization period of relevant financial year.
2. Rival submissions of both the parties have been heard and record perused. The learned Authorised Representative (Id.AR) of the assessee submits that during assessment the assessee could not make compliance as the assessee was facing mental trauma due to matrimonial dispute with his wife. There was

multiple litigation in various legal forums. The AO completed assessment on 03.12.2019 and the assessee was required to file appeal on or before 02.01.2020, however, it was filed only on 03.07.2020 when the official of department started for calling for deposit of tax, thus, there was delay of 183 days in filing appeal. It was severe COVID-19 pandemic when the assessee filed appeal. The Hon'ble Supreme Court extended time limit for taking recourse of law including filing of appeals up to 28.02.2022 and 90 days grace period was also allowed in Suo Motu Writ Petition No.03 of 2020. Thus, the majority of the period was condoned by order of Hon'ble Supreme Court. If the time period condoned by Apex Court is excluded, the effectively the delay was only of 78 days. The delay was neither intentional or deliberate. The assessee explained all such facts while filing first appeal before CIT(A). All such facts are as recorded in para 4 of impugned order by Id CIT(A). Even to the notices issued by Id CIT(A) under section 250, the assessee filed his response on 23.12.2023 as noted in para-6 of impugned order. The Id CIT(A) not condoned the delay by taking view that no documentary evidence is filed by the assessee. The Id AR of the assessee submits that he was now filed copy of settlement deed executed between assessee and his wife, on the basis of which ultimately decree of divorce was passed. The assessee is really interested in perusing his appeal on merit. The Assessing Officer (AO) also passed ex-parte assessment order. The Id CIT(A) also passed ex-parte order without discussing merits of the case. The Id. AR of the assessee submits that the AO also passed assessment order for the want of submissions. The assessee has a good case on merit and is likely to succeed if one more

opportunity is allowed to the assessee to contest the case on merit. The Id. AR of the assessee submits that he undertakes on behalf of assessee to be more vigilant in future in complying the notices issued by the lower authorities and would file his submissions of first date of hearing by either of the lower authority. He prayed to restore the matter back to the file of AO.

3. On the other hand, learned Senior Departmental Representative (Id. CIT-DR), for the revenue submits that the assessee is habitual defaulter in making compliance. In case the Bench is of the view that the assessee deserves any relief, the matter maybe restored back to the file of CIT(A) with specific direction to file appropriate reply and evidence to substantiate the source of cash deposit during relevant financial year.
4. We have considered the rival submissions of both the parties and have perused the orders of lower authorities carefully. We find that while passing assessment order, the AO made addition of Rs.38.58 lacs on account of cash deposits during demonetization in the relevant financial year and taxed the same under section 115BBE. The Id CIT(A), dismissed the appeal of assessee in limine by not condoning the delay in filing appeal. On careful consideration of facts and the submissions of Id AR of the assessee and keeping in view that substantial part of delay is covered by the order of Hon'ble Supreme Court as explained hereinabove, thus, we are of the view that the assessee has shown reasonable cause for condoning delay before CIT(A), which we condone. We also find that the assessee is interested in pursuing his appeal on merit. The delay in filing appeal seems to be not intentional or deliberate, rather the assessee is interested in pursuing his appeal on merit. Thus, the order passed by Id CIT(A)

is set aside. Further, considering the facts that substantial rights of the assessee are involved in the present case and both the lower authorities have passed order without considering merits of the case, therefore, the matter is restored back to the file of AO to pass assessment order afresh and in accordance with law. Needless to direct that before passing order, the AO shall grant fair and reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant in future and not to cause further delay and seek adjournment without any valid reason and to furnish all the details and his submissions and evidences on various ground of appeal raised, as soon as possible. In the result, the grounds of appeal raised by the assessee are allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purpose only.

Order pronounced in the open court on 13/03/2025.

Sd/-
(BIJAYANANDA PRUSETH)
ACCUNTANT MEMBER

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Surat, Dated: 13/03/2024
*Self/by author

- Copy to:
1. Assessee
 2. Revenue
 3. CIT
 4. DR
 5. Gurd File

By order

Sr. Private Secretary, ITAT, Surat