



**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. 839/RJT/2024
(निर्धारणवर्ष / Assessment Year: (2012-13)
(Hybrid Hearing)**

Shitalben Jyotikumar Raychura Nr. Gujarat Housing Board, Kadiya Plot, Porbandar – 360575	Vs.	The ITO, ward – 2(4) Porbandar - 360575
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AVQPR2230N		
(Appellant)		(Respondent)

Appellant by : Shri Gaurang Khakhkhar, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 25/03/2025
Date of Pronouncement : 26/03/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 14.09.2023, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 147 r.w.s. 144 and 144B of the Income Tax Act, 1961 (in short “the Act”), vide order dated 14.11.2019.

2. Grounds of appeal raised by the assessee are as follows:

1) That the assessee craves leave to urge such other ground or grounds before or at the time of hearing of appeal.



2) *On the facts and circumstances, the assessment order is null and void as the same is in violation of CBDT circular no. 19/2019 requiring mandatory DIN.*

3) *The hon'ble Commissioner of Income Tax (A) has erred on law as well as on facts in upholding on account of cash deposit of Rs. 12,45,000/- being treated as unexplained cash deposit u/s. 69A of the I. T. Act, 1961.*

4) *The Hon'ble Commissioner of Income Tax (A) has erred in law as well as on facts in upholding addition on account of unsecured loan of Rs. 4,00,000/- being treated as unexplained cash credit u/s. 68 of the IT Act, 1961.*

5) *The Ld. AO has erred in law as well as on facts in initiating reassessment procedure on the basis of mere information of cash deposit.*

3. At the outset, we notice that the appeal filed by the assessee is late by 360 days. The assessee filed condonation of delay supported by the Affidavit. The assessee filed an application for condonation of delay, which reproduced as under:

1. *Being aggrieved by the assessment order, I have filed appeal before Hon'ble CIT(A). while filing appeal I have given email id doshi.maru@gmail.com in Sr. No. 17 of the From no. 35.*

2. *Though I have give above referred e-mail id in form no. 35 for correspondence, all the 5 appeal hearing notices and CIT appeal order was send to email id Punitchudasama.itr@gmail.com which belong to my previous consultant. Due to non information of appeal notices, no compliances have been made by my CA.*

3. *As per my understanding, appeal was pending quite since long and hence I have contacted CA Gaurang Khakhkhar to proceed further. Based on Income Tax E-filing portal login, it informed to me that due to non appearance, appeal was dismissed on 14th September, 2023.*

4. *That the aforesaid confirmation of addition by Hon'ble CIT(A) shocked me and unnerved me and I was completely disturbed and at a loss as to how I should proceed further in the matter and not being very well versed with Income tax and the Income tax proceedings, I was completely, mentally & physically shocked with regard to addition.*

5. *Asking further course of action, I was instructed to file the appeal immediately against the CIT appeal order with delay condonation.*

6. *Appeal need to file within 60 days from the receipt of assessment order i.e., 14th November, 2023 but due to non information regarding assessment the appeal*



could not be filed within 30 days. Hence there is delay in filing of appeal by 350 days.

7. The delay in filing appeal is bonafide and unintentional. I respectfully submit that I have a very strong prima facie case on the merit as well as on legal grounds.

8. No prejudice would be cause to the respondent if the delay is condoned.

9. If the delay is not condoned it would cause grave harm and injury to me.

4. After hearing the rival contention of both the parties, we noted that it is an issue of late filing of appeal, reason for late filing of appeal in that the e-mail Id was given to the previous consultant who did not inform the assessee. However, the assessee came to know about the order of the Ld. CIT(A). Assessee immediately has taken step to file appeal before the Tribunal. That the assessee prove that there is sufficient cause for filing of the appeal not in time. There is no mistake of the assessee, and the delay is not deliberate. In view of the situation, we condoned the delay.

5. Facts of the case that the appellant run a small Kariyana Shop in the name of “Gayatri Provision Store”, having small income and hence there is no liability to file ITR for AY 2012-13. The assessee was served with notice u/s. 148 dated 11.03.2019 and the reason for reopening of assessment was the cash deposits of Rs. 12,45,000/- in the bank during the AY 2011-12 and return was filed by the appellant on 16.09.2019 declaring an income of Rs. 1,57,326/-. The Ld. AO vide order u/s. 144 r.w.s. 147 of the Act dated 14.11.2019 assessed the total income of the assessee at Rs. 18,02,330/- which includes unexplained cash deposited of Rs. 12,45,000/- u/s. 69A as unexplained money and Rs. 4,00,000/- as unexplained cash credit u/s. 68 in respect of unsecured loan without any proper justification. The AO vide order dated 14.11.2019 worked out net taxable income of Rs. 18,02,230/- .



6. Aggrieved by the order of the Ld. AO, the assessee filed an appeal against the order of the Ld. AO. The Ld. CIT(A) dismissed the case with following observation:

“The appellant has challenged the total additions of Rs. 16,45,000/- u/s. 69A and Rs. 4,00,000/- of the Act without submitting sufficient evidences or counter arguments in support of her claims. Mere claiming that the AO erred in making the addition does not given an edge to the appellant. During the course of assessment proceedings the appellant was asked that as to why the above entire amount should not be added to the total income of the appellant. No reply has been filed by the appellant. Hence the AO had no option but to add the above amount to the total income of the appellant. Further, during appellate proceedings also, no response received from the appellant to substantiate her claim in support of grounds of appeal though enough opportunities of being heard were given to her, as tabulated in para 4 above. Hence, keeping in view all the stated facts and discussions and in the absence of any corroborative evidence or material/submission on records. I find no reason in altering the additions made by the AO. In view of this, the grounds raised by the appellant are dismissed.”

7. That the assessee filed an appeal against the impugned order of the Ld. CIT(A) before The Tribunal.

8. Ld. AR of the assessee submitted that the appellant could not comply with the notice issued by the Ld. CIT(A) because of email Id of the previous accountant, who did not inform to the assessee. Ld. AR prayed for an opportunity to explain the case before the Lower Authority.

9. On the other hand, Ld. DR for the revenue, relied upon the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR.

10. We have heard both the parties and perused the material available on record. We noted that the several notices have been issued by the Ld. CIT(A) for hearings of the case. but there was no compliance due to that hearing notices were served on email Id Punitchudasama.itr@gmail.com which is delivered to his previous consultant who did not inform to the assessee about the notices of hearing. We further observed that the



assessment was framed u/s. 147 r.w.s. 144 and 144B of the I. T. Act by the Ld. AO. We note that the assessee has not made the compliance with the notices for hearing issued by the Ld. AO. We note that the assessee has not give due care and attention to the case and the assessee has also a non-cooperative attitude in pursuing the matter for AY 2012-13. We direct the assessee to deposit of cost of Rs. 2000 to the Prime Minister Relief Fund (Government of India) within 10days from today and the receipt to be submitted with the Registrar of this Tribunal. Keeping in view, in the interest of justice, that an opportunity to be given to the assessee to produced/submit the relevant documents before the Lower Authority. Therefore, we set aside the order of the Ld. CIT(A) and remand the matter back to the file of the Ld. AO for fresh adjudication on merits.

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

Order pronounced in the open court on 26 - 03 -2025

Sd/-
(A. L. SAINI)
ACCOUNTANT MEMBER

Rajkot

दिनांक/ Date: 26/ 03 /2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

(True Copy)

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot