



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No. 73/RJT/2024

(निर्धारणवर्ष / Assessment Year: (2017-18))

(Hybrid Hearing)

Kishorlal Vallabhdas Padaliya Survey No. – 275, Plot No.- 4,NR. Amiraj Plastic, Shapar(Veraval) B/h- Jain Steel, Rajkot 360002	Vs.	DCIT/ACIT CIR 1(1), Aaykar Bhawan, Race Course Ring Road, Rajkot 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AVHPP1300Q		
(Appellant)		(Respondent)

Appellant by : Shri Hiren Trivedi, Ld. AR

Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr DR

सुनवाईकीतारीख/ **Date of Hearing** : **07/12/2024**

घोषणाकीतारीख/**Date of Pronouncement**: **04/03/2025**

आदेश / ORDER

PER DINESH MOHAN SINHA JM;

Captioned appeal filed by assessee pertaining to Assessment Year 2017-18, is directed against order passed by Commissioner Of Income Tax (Appeal), vide order dated 20/09/2023, which in turn arises out of an order passed by the Assessing Officer dated 29/12/2019 u/s 143(3) of the Income Tax Act, 1961.



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

- 1. In law and on the facts and in the circumstances of the case, the Id. CIT (Appeal) NFAC has passed the appellate order without providing video hearing as provided in Faceless Appeals Scheme more particularly when Appellant has stated that proper opportunity of being heard should be provided before disposing of the its appeal.*
- 2. In law and in the facts and circumstances of the case of the Appellant, the order u/s 250 of the Income Tax Act, 1961 without considering the submissions made by appellant is bad in law and deserves to be cancelled.*
- 3. In law and in the facts and circumstances of the case of the Appellant, the Ld. CIT(A)- NFAC has erred in invoking section 69A r.w.s 115BBE of Act for income of Rs. 20,14,443/- earned during the course of business.*
- 4. Without prejudice to above, in law and in the facts and circumstances the Ld. CIT(A)- NFAC erred in confirming the levy of interest under section 234A/B/C/D.*
- 5. Without prejudice to above, in law and in the facts and circumstances the Ld. CIT(A)- NFAC erred in confirming penalty under section 271(1)(c).*
- 6. The appellant craves leave to add to alter, amend and/or withdraw any ground or grounds of appeal either before or during the course of hearing of the appeal.*

3. At the outset the Registrar of this Tribunal of as information that the appeal find delay by 79 days, that the assessee as filled an application condonation of delay. Along with an affidavit in support of the application. That the relevant para of the affidavit are reproduce herewith.

(1) "I say that I am the appellant in the captioned appeal. I say there is some delay in preferring the accompanying appeal. However, the said delay is not attributable to any negligence on the part of the applicant. It is submitted that I was not aware about services of notice on the portal and neither I has any knowledge of order dated 20/09/2023 passed by CIT(A), NFAC, Delhi. I say that notices were not served on the email of the appellant and neither any email was received by the appellant regarding services of notices or uploading the impugned order on the portal.

(2) I say that email id registered on the portal shyamplastic20@gmail.com, I say that no notice was served on aforementioned email id nor the order was served upon aforementioned email id. I further say the erstwhile consultant who 4 years back used to work for me could not inform me about any of the notice nor the fact regarding order being uploaded on the portal was shared with the me. I further say it is only when the present consultant accessed the portal in the month of January he shared the fact with me.



(3) I say some time was also consumed in arranging funds for preferring the accompanying appeal. It is submitted that thereafter, the papers were handed over to the new advocate for preferring appeal and thereafter some time was consumed in collating information regarding the present appeal. It is submitted that thereafter time was also consumed in preparation of the appeal.

(4) I say that appellant have remained vigilant and was always desirous of challenging the impugned judgment, order and due to no knowledge of passing of the impugned order, there is some delay in preferring the present accompanying appeal.

What is stated hereinabove is true and correct to the best of my knowledge and belief. Therefore we are of the view interest of justice of delay is here by condoned and the appeal heard on merit.”

4. During the course of arguments AR submitted that the assessee is not aware about these proceedings. The email registered was of old consultant, who did not inform to the assessee. The assessee requested for condonation of delay in filing the appeal.

5. On the contrary DR has relied on the order of lower authority, and has no objection in case the delay condone by this Tribunal.

6. We have heard rival contention of both the party and gone through the application for condonation of delay. we note that there is a delay in filing the appeal before this Tribunal but delay is neither deliberate nor intentional, it appears that the delay is due to circumstance beyond the control of the assessee. We further note that the there is bonafide reasons for not filing the appeal in time. We condone the delay in filing the appeal and the appeal is heard on merit.

7. Assessment framed u/s. 143(3) of the Act by Making the addition in income of Rs. 20,14,443/- The assessee challenged the legality and validity of order of Ld. AO dated. 29.12.2019 by filing of an appeal before the Ld. CIT(A).The Learned CIT(A) has dismissed the appeal of the assessee. The appeal is dismissed on account of non-compliance of notice by the assessee.



8. That the assessee is in appeal before this tribunal against the impugned order of the Ld.CIT(A).

(i) During the course of hearing, Ld. A.R. Submitted that assessee email Id of the previous consultant, who did not inform about the date of hearing and prayed for an opportunity to represent the case before the Lower Authority.

(ii) On the other hand, ld. DR has submitted that a number of notices were issued by the Ld. CIT(A), and due opportunity was provided to the assessee but the assessee did not comply with the notices. The ld. D.R. has not object of the prayer of the assessee.

9. We have heard both the parties and perused the documents available on record. We noted that the four notices issued by the ld. CIT(A) for hearing on dated 04.02.2020, 14.02.2020, 28.02.2020 and 21.01.2021 of the case. We noted that the e mail Id old consultant was given in Form No. 35 and the notices were sent through email and the consultant who did not inform the assessee about the notice of hearing. We note that the assessee was negligent in pursuing the matter with his old consultant. We direct the assessee to deposit cost of Rs. 2,000/- to the Prime Minister Relief fund (Government of India) within 10 days from today and the receipt is to be placed on record. During the course of hearing the Ld. AR of the assessee has undertaken his responsibility to represent the case before the Ld. AO. we are of the view that one more opportunity should be given to the assessee to present his case before lower authority and remand the matter back to the file of the Ld. AO for fresh adjudication on merits, after giving an opportunity to be heard the assessee directed to submit all the required documents in support of the income earned during the year.



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

Order pronounced in the open court on 04 / 03 /2025.

Sd/-

**(Dr. A.L. SAINI)
ACCOUNT MEMBER**

Rajkot

दिनांक/ Date: 04 /03 /2025

Sd/-

**(DINESH MOHAN SINHA)
JUDICAL MEMBER**

(True Copy)

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot