

THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT

**Before: Shri Sanjay Garg, Judicial Member
And Shri Bijayananda Pruseth, Accountant Member**

**ITA No. 908/Srt/2024
Assessment Year 2015-16**

Manjulaben Arvindbhai Rupareliya, 10 Siddharth Township, B/H Silver Point, Nana Varachha Surat-395006 PAN: AFFPR0190C (Appellant)	Vs	The ITO, Ward-3(1)(5), Surat (Respondent)
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**Assessee by: Shri PM Jagasheth, A.R.
Revenue by: Shri Mukesh Jain, Sr. D.R.**

Date of hearing : 04-03-2025
Date of pronouncement : 28-03-2025

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been filed by the Assessee against the order passed by the Learned Commissioner of Income Tax (Appeal)/National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 16.03.2024 arising from the order passed u/s. 143(3) of the Income Tax

Act, 1961 (here-in-after referred to as “the Act”) relevant to the Assessment Year 2015-16.

2. There is a delay of 99 days in filing of this appeal. The ld. counsel for the assessee has contended that that the assessee had sought adjournment from the Ld. CIT(A) and the assessee was under bonafide belief that the case has been adjourned, however the Ld. CIT(A) passed an ex-parte decision of the appeal and confirmed the impugned addition made by the Assessing Officer treating the capital gains shown by the assessee as business income of the assessee. The ld. counsel has submitted that since the assessee was not aware of the passing of the impugned order of the Ld. CIT(A), therefore the delay has occurred in filing the present appeal.

3. Considering the above submissions of the ld. counsel for the assessee, the delay in filing the appeal is hereby condoned. We are of the view that interests of justice will be well served, if, the assessee is given an opportunity to present his case before the ld. CIT(A). In view of this, the impugned order of the ld. CIT(A) is set aside and the matter is restored to the file of CIT(A) for decision afresh on this issue. The assessee will be given adequate opportunity to present his case before the CIT(A). The assessee will not request for unnecessary adjournments before the Ld. CIT(A) and will promptly produce

all necessary documents/evidences before the CIT(A) as and when called for.

4. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 28-03-2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER
Ahmedabad : Dated: 28/03/2025

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Surat
6. Guard file.

// True Copy //

By order,
Assistant Registrar,
Income Tax Appellate Tribunal,
Surat