



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.105/RJT/2024

Assessment Year: (2014-15)

(Hybrid Hearing)

Ramniklal Hirji Patel Station Road, Bhuj – 370001 Gujarat	Vs.	The ITO Ward-2, Bhuj – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ADAPP3126C		
(Appellant)		(Respondent)

Appellant by : Written Submission
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 02/04/2025
Date of Pronouncement : 07/04/2025

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 08.06.2023, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 144 r.w.s. 143(3) and 147 of the Income Tax Act, 1961 (in short “the Act”), vide order dated 31.10.2017.

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

1 The Ld. A.O. erred in law as well as on facts in making addition of Rs. RS. 46,18,252/- The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.



2 The Ld. A.O. erred in law as well as on facts in making addition of Rs. RS. 14,14,359 Us/69 The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.

3. The Ld. A.O. erred in law as well as on facts in making addition of Rs. RS.9,29,040 Us-/50C The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.

4. The Ld. A.O. erred in law as well as on facts in making addition of Rs. RS.4,17,900 Us/56 (2)(vii)(b)(ii)/-. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.

5. The Ld. A.O. erred in law as well as on facts in making addition of Rs. RS.9,56,953/-. Rejecting claim Us/-48The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.

6. The Ld. A.O. erred in law as well as on facts in making addition of Rs. RS.9,00,000/-. Treating as from unexplained source. The Ld CIT(A) has also erred in confirming the same. The same needs cancellation.

3. The registree of this Tribunal informs that there is a delay of 199 days in filing the appeal. The Ld. AR of the assessee submitted that the assessee has filed an application for condonation of delay support by the affidavit, relevant para contain reasons for the delay, the same is reproduced.

“2.1. The assessee is senior citizen and suffering from high blood pressure and also suffering from prostate problem and due to this he is unable to attend his work regularly because of such illness.

2.2 The wife of assessee is also senior citizen and suffering from high blood pressure beside this she is also suffering from incurable disease viz dementia (ulzimer), no medical treatment is available for this even at global and she is often forgets her memory and this causes is unbearable difficulties and looking after her while she is in kitchen before gas pipeline and whenever she goes out of the resident she is unable to return sue Moto and one has to be behind her constantly.

2.3 We have got only one son and therefore I have to completely look after my wife to save her life from major problem because of her memory problem Sometimes also she is not able to find out residence as also Introduce any relative.”



4. That the Ld. AR of the assessee also draw out attention towards the judgement passed by the Supreme Court has, in the case of Collector Land Acquisition v. Mst. Katiji & Others 167 ITR 471 (SC). On the other hand, the Ld. DR for the revenue left the matter to the wisdom of Bench without raising any objection. We have considered the explanation advanced by assessee and in absence of any contrary fact or material on record, the assessee is found to have a “sufficient cause” for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal filed after expiry of prescribed time, if there is a “sufficient cause” for not presenting appeal within prescribed time. Thus, taking into account the provision of section 253(5) and the decision of Hon’ble Supreme Court, we take a judicious view, condone the delay, and admit the appeal and proceed further for hearing.

5. Brief facts of the case are that the assessee is reopening notices u/s. 148 on 25.11.2016 was issued and reasons for reopening mentioned under:

“As per information assessee has sold the property worth register value of Rs. 6,50,000/- as against market value/ Jantri value of Rs. 13,08,200/-. Accordingly, assessee offered fewer amount of Rs. 6,58,200/- (Rs. 13,08,200/- less Rs. 6,50,000/-) as required by the provisions of the section 50C of the I. T. Act, 1961.”

Several notices issued to the assessee but, the assessee did not comply with the notices. The assessee verify the various details and data available on record, the income of the assessee is computed as under:

	Return Income		:-	Rs. 4,14,590/-
Add:	As discussed in para 5.0 of this order	Rs. 14,14,359/-	:-	
	As discussed in para 5.0 of this order	Rs. 9,29,0401/-	:-	
	As discussed in para 5.0 of this order	Rs. 4,17,900/-	:-	
	As discussed in para 5.0 of this order	Rs. 9,56,953/-	:-	
	As discussed in para 5.0 of this order	Rs. 9,00,000/-	:-	Rs. 46,18,252/-
		Assessed Income (R/O)	:-	Rs. 50,32,842/-



	Agricultural income for rate purpose :-	Rs. 8,32,081/-
--	---	----------------

6. The assessee filed an appeal against the assessment order dated 31.10.2017 in the office of the Ld. CIT(A). The Ld. CIT(A) has dismissed the appeal after giving due notices, the assessee did not file in submission or response to the notices on 08.06.2023.

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

8. During the course of hearing, the Ld. AR of the assessee has submitted that the assessee was having no knowledge about the proceedings, going on before the Ld. CIT(A) and requested for an opportunity may kindly be granted.

9. On the contrary, the Ld. Sr. DR for the revenue has relied on the judgement of the Ld. CIT(A) and not objected to the prayer of the Ld. AR of the assessee.

10. We have heard both the Ld. AR of the assessee and Ld. Sr. DR for the revenue. We noted that the Ld. CIT(A) has issued notices on 08.01.2021, 23.08.2022, 11.05.2023 and 23.05.2023. In response to the notices issued by the Ld. CIT(A), the assessee did not reply or submitted any requisite document/evident. The ex-parte order of Ld. CIT(A) is silent on service of the notice upon the assessee. We note that Ld. CIT(A) has not decided the appeal as per mandate of provisions u/s. 250(6) of the Act. However, we are of the view, that one more opportunity should be given to the assessee to plead his case before the Ld. CIT(A). We noted that the assessment order was also passed an ex-parte by the Ld. AO. We therefore in the interest of justice, giving an



opportunity to the assessee to present his case before the Authority. Therefore, we set aside the order of the Ld. CIT(A) and remitted the matter back to the file of the Ld. AO for fresh adjudication after giving due opportunity to the assessee.

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

Order is pronounced in the open court on 07/04/2025.

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

Rajkot

दिनांक/ Date: 07/04/2025

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

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot