



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।

IN THE INCOMETAXAPPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

And

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.262/RJT/2024

(निर्धारण वर्ष/Assessment Year: (2014-15))

SuryaElectromech Private Limited, Plot No.33, GIDC, Sector No.8, Gandhidham 370201	Vs.	Income Tax Officer, Ward 2, Gandhidham Gujrat 370201
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAQCS7290B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Appellant by : ShriChetan Agarwal, Ld. AR

प्रत्यर्थी ओर से/Respondent by : Shri Sanjay Pungalia, Ld.CIT (DR)

सुनवाईकीतारीख/ Date of Hearing : 23/04/2025

घोषणाकीतारीख/Date of Pronouncement : 23/04/2025

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to assessment year (AY) 2014-15, is directed against the order passed by the Learned Commissioner of Income Tax (Appeal) [in short 'Ld. CIT(A)'], dated



19/12/2023, which in turn arises out of an assessment order passed by the assessing officer under section 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 28/10/2016.

2. When the matter was called for hearing, the learned AR for the assessee at the outset submitted that the appeal has been filed by the assessee belatedly. The learned AR adverted our attention to the affidavit filed in this regard citing reasons for condonation of delay and urged for a benign view and sought condonation of delay of 68 days in filing the appeal before the Tribunal. The Ld. AR submitted that assessee was not aware of passing of order by Ld. CIT(A), which was served online. When assessee checked the portal for other work then assessee came to know about dismissal of appeal by Ld CIT(A), therefore, such a small delay in filing occurred, which may kindly be condoned. On the other hand, learned DR for the Revenue submitted that assessee has failed to prove the sufficient cause therefore delay should not be condoned.

3. We have heard both the parties on this preliminary issue. A perusal of the affidavit gives us an impression of existence of mitigating circumstances to enable us to exercise our discretion in favour of the assessee. Accordingly, the delay is condoned.

4. On merit, we note that a perusal of CIT(A)'s order shows that he has decided the appeal ex-parte. The Order of CIT(A) mentions that notice u/s 250 of the Act was served and none appeared on behalf of the assessee. In page-8 of the CIT(A)'s order it has been mentioned that notices dated 10.12.2021, 23-12-2021, 17.01.2022 and 13.04.2022 etc, were issued. The Ld. AR for the assessee



submitted that none of these notices were served on the assessee, therefore, the assessee could not appear before the learned CIT(A).

5. We are of the view that the assessee did not have proper opportunity of being heard before CIT(A) and therefore, *ex-parte* order of Ld.CIT(A) dismissing the appeal of the assessee has to be set aside. The ld. AR for the assessee also pointed out that order of CIT(A) may be set aside and the issues raised before CIT(A) be remanded to the assessing officer for fresh consideration. It has been submitted that at the assessment stage the assessee could not produce any proper evidences. It has also been submitted that now the assessee is willing to appear before assessing officer and therefore it would be in the interest of justice that the matter should be remanded to the assessing officer. The ld. DR did not object to the prayer made by the ld. AR for the assessee, however, he stated that it is just wasting of time and resources of the lower authorities, if the matter is remitted back to the file of the lower authorities, therefore cost of Rs. 10,000/- should be imposed on the assessee. Hence, we impose cost of Rs. 10,000/-, on the assessee, on account of his non- compliance attitude, which is to be deposited in the Prime Minister relief fund.

6. We accept the prayer of the ld AR for the assessee and therefore, we set - aside the order of CIT(A) and remand the various issues raised by the assessee in the grounds of appeal before CIT(A) for fresh consideration by the assessing officer, with a liberty to the assessee to prove his case by producing sufficient evidence/material to the satisfaction of the assessing officer. For statistical purposes the appeal of the assessee is allowed.

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



Order is pronounced on 23/04/2025 in the open court.

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

Rajkot

दिनांक/ Date: 23 /04/2025

Copy of the Order forwarded to:

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

(True Copy)

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot