



IN THE INCOMETAX APPELLATE TRIBUNAL, RAJKOT BENCH(SMC), RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

आयकरअपीलसं./ITA No.44/RJT/2025

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

Badiani Pratap Jethalal 1 st Floor, Morden Market, Pandit Nehru Marg, Near Ambar Cinema, Jamnagar-361008	Vs.	The Income Tax Officer, Ward-2(2) Jamnagar-361110
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.:AABHB4073P		
(Appellant)		(Respondent)

Appellant by : Shri Om S. Modi, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav , Ld. Sr. (DR)
Date of Hearing : 13/03/2025
Date of Pronouncement : 24/04/2025

आदेश / ORDER

Dr. ARJUNLAL SAINI AM;

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order passed by Commissioner of Income Tax (Appeals), vide order dated 02/01/2024, which in turn arises out of an order passed by the Assessing Officer, dated 11/12/2019, u/s 144 of the Income Tax Act, 1961.

2. The appeal filed by the assessee, for Assessment Year 2017-18, is barred by limitation by 311 days. The assessee has moved a petition requesting the Bench to condone the delay. Learned Counsel for the assessee, explained the reasons for delay stating that main Karta of the HUF was died and the subsequent karta of the HUF was engaged in the treatment of father and mother, therefore, appeal



could not be filed on time. The assessee submitted the death certificate. Therefore, learned Counsel for the assessee submitted that in the interest of justice the delay should be condoned. On the other hand, Learned DR for the revenue, opposed the prayer of the assessee for condonation of delay and stated that on such firmse grounds the delay should not be condoned.

3.I have heard the parties on this preliminary issue. I note that the reasons given in the affidavit for condonation of delay were convincing and these reasons would constitute reasonable and sufficient cause for the delay in filing this appeal. Having heard both the parties and after having gone through the affidavit as well the delay condonation, application, I am of the considered opinion that in the interest of justice, the delay deserves to be condoned. I, accordingly, condone the delay.

4. At the outset Learned Counsel for the assessee submitted that Ld. CIT(A) fixed the cases for hearing on 09.02.2021 by issuing notice on 25.01.2021. However, thereafter the Ld. CIT(A) issued further notices. However, since none appeared on behalf of the assessee, the Ld. CIT(A) was pleased to pass an *ex-parte* order dismissing the appeal of the assessee *in limine*. According to the Ld. Counsel none of the notices were served upon the assessee and in the absence of receipt of notices, the Ld. Counsel of the assessee could not comply by attending for hearing of the appeal before the Ld. CIT(A). The learned Counsel submitted that the impugned order was passed thus without giving adequate opportunity of being heard and therefore there was violation of principles of natural justice and, therefore, according to Ld. Counsel, the order of the Ld. CIT(A) is fragile in the eyes of law. Moreover, learned CIT(A) did not decide the matter on merit and as per the provisions of section 250(6) of the Act.



5. The ld. DR for the revenue as well assessee did not have objection if the matter is remitted back to the file of Assessing Officer. However, learned DR for the revenue, submitted that on account of non-compliance attitude of the assessee, a cost of Rs.5000/- should be imposed on the assessee, therefore, I impose a cost of Rs.5000/-, on the assessee, which is to be deposited in the Prime Minister national relief fund. Accordingly, the assessee has deposited cost of Rs.5000/- into the Prime Minister national fund and furnished the receipt before the Bench.

6. I have heard both the parties, and considering the above facts and in the interest of justice and fair play for both the parties, I set aside the order of ld. CIT(A) and remit the matter back to the file of Assessing Officer for de novo adjudication, and to decide the matter in accordance to law after giving opportunity of being heard to the assessee.

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

Order pronounced in the open court on 24 / 04 /2025.

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

Rajkot

(True Copy)

दिनांक/ Date:24 /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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot