



IN THE INCOMETAX APPELLATE TRIBUNAL, RAJKOTBENCH (SMC), RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No.01/RJT/2025

Assessment Year: (2017-18)

(Hybrid Hearing)

MansukhbhaiKurjibhaiTalpada, C/O. Kishan Polymers, At. Movaiya, Tal: Paddhari, Rajkot 360110(Gujarat)	Vs.	Income Tax Officer, Ward 2(1)(4), Rajkot
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AGIPT5314Q		
(Appellant)		(Respondent)

Appellant by	Shri Sumit Shingala, Ld. A.R.
Respondent by	Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing	10/03/2025
Date of Pronouncement	24/04/2025

आदेश / ORDER

PER DR. A. L. SAINI, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2017-18, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short "the Ld. CIT(A)/NFAC"], dated 26/03/2024, which in turn arises out of an assessment order passed by Assessing Officer (in short "the AO"), u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), dated 27/06/2019.

2. When the matter was called for hearing, the learned Counsel for the assessee at the outset submitted that the appeal has been filed by the assessee belatedly. The learned Counsel adverted my 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 225 days in filing the appeal before the Tribunal. A perusal of the affidavit gives me an impression of existence of mitigating circumstances to enable me to exercise my discretion in favour of the assessee. Accordingly, the delay is condoned

3. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Id. CIT(A) and the order being an ex-parte order, stood vitiated on account of violation of principle of natural justice. During the appellate proceedings, the notices of hearing were not served on the assessee. The Id. Counsel for the assessee, therefore, contended that in the interest of justice, another opportunity to contest the appeal before the assessing officer may be granted to the assessee, as the assessee needs to file some fresh documents and evidences to prove his claim.

4. On the other hand, the learned DR for the revenue, argued that there is a non-compliance on the part of the assessee, before the assessing officer as well as before the Id. CIT(A), during the appellate proceedings, therefore, it is just wasting the time and resources of the lower authorities, if the matter is remitted back to the file of the lower authorities. Therefore, Id. DR contended that a cost of Rs.5000/- may be imposed on the assessee, and then this matter may be restored back to the file of the assessing officer, for fresh adjudication.

5. I have heard both the parties. I note that in the assessee's case under consideration, the assessment was carried out u/s 144 of the Act and the impugned order passed by the Id. CIT(A), is an ex parte order and non-speaking



order, therefore, I do not wish to make any comments on the merits of the grounds raised by the assessee. However, on account of non-compliance attitude of the assessee, a cost of Rs.5000/- is imposed on the assessee, which is to be deposited in the prime minister relief fund.

6. Considering the above facts, I note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the ld. CIT(A). I note that the ld. CIT(A) did not discuss the assessee's case on merits based on the material available before him hence it is a violation of principle of natural justice. I note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, I restore the matter back to the file of assessing officer for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, I deem it fit and proper to set aside the order of the ld. CIT(A) and remit the matter back to the file of the assessing officer to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

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

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

Rajkot

दिनांक/ Date: 24/04/2025

Copy of the Order forwarded to:



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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot