



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC), RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER.

आयकरअपीलसं./ITA No.139/RJT/2025

निर्धारणवर्ष / Assessment Year: (2019-20)

(Hybrid Hearing)

KalpeshbhaiVajubhaiKunpara, Opp. Ghanshyam Nagar, Nr. Sun Petrol Pump, Vivekanand Nagar, Kothariya Main Road Rajkot 360002 (Gujarat)	Vs.	Income Tax officer, The Income Tax Department, Race Course Road, Rajkot 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AYJPK7641J		
(Appellant)		(Respondent)

Appellant by : Shri Sunny Mehta, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav , Ld. Sr. (DR)
Date of Hearing : 13/03/2025
Date of Pronouncement : 25/04/2025

आदेश / ORDER

Dr. ARJUNLAL SAINI AM;

Captioned appeal filed by the assessee, pertaining to Assessment Year 2019-20, is directed against the order passed by Learned Commissioner of Income Tax (Appeal), vide order dated 19/09/2024, which in turn arises out of an order passed by the Assessing Officer, dated 08/03/2024, u/s 147 r.w.s.144 of the Income Tax Act, 1961.

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 88 days in filing the appeal before the Tribunal. The Id.



DR for the revenue, opposed the prayer of the assessee for condonation of delay. 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, Learned Counsel for the assessee submitted that assessee could not comply with the notices because all the notices issued by the Id. CIT(A), during the appellate proceedings, were not served on the assessee. As a result, the assessee could not appear before the Id. CIT(A). In addition to this, the assessee wants to submit some additional documents and evidences before the assessing officer to prove his claim, therefore Id. Counsel argued that the matter may be restored back to the file of the assessing officer for fresh adjudication.

4. On the other hand, Learned Departmental Representative (Id. DR) for the Revenue, did not have any objection, if the matter is remitted back to the file of Assessing Officer for fresh adjudication.

5. I have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the Id. CIT(A) and other material brought on record. I note that assessee could not plead his case successfully before the Id. CIT(A). Both the Learned Representatives are *ad- idem* at the outset in informing me that CIT(A) has passed his lower appellate order *ex- parte* after noting that the assessee did not appear for hearing fixed on various date. I, therefore observe that assessee's absence on the above sole opportunity of hearing granted by lower appellate proceedings was neither intentional nor deliberate but on account of its non-



service of notices on correct email-id of the assessee. The fact also remains that CIT(A) has nowhere dealt with merits of the issue whilst upholding the Assessing Officer's action.

6. Hence, I am of the view that one more opportunity should be given to the assessee to plead his case before the Assessing Officer. 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 Id. 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, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25/04/2025.

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

Rajkot

(True Copy)

दिनांक/ Date:25/04/2025

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