



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

आयकर अपील सं./ITA No.882/RJT/2024

निर्धारण वर्ष/Assessment Year: (2017-18)

Lalitaben Vikas Foundation, C/O Charma Shilp, Rajkot-360 001	Vs	Income Tax Officer, Ward-1(Exemption), New Aaykar Bhawan, Rajkot-360 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.:AAATL2672 F		
(Appellant)		(Respondent)

Appellant by : Shri G.R. Sanghavi, AR

Respondent by : Shri Abhimanyu Singh Yadav, Sr. DR

Date of Hearing : 12/03/2025

Date of Pronouncement : 30/04/2025

आदेश / ORDER

Dr. ARJUNLAL SAINI AM;

Captioned appeal filed by assessee pertaining to Assessment Year 2017-18, is directed against order passed by Commissioner of Income-tax (Appeal)/Addl/JCIT(A)-1, Mumbai, vide order dated 04.10.2024, which in turn arises out of an order passed by the Centralized Processing Center (CPC), Bangalore/Assessing Officer dated 09.03.2019 u/s 143(1) of the Income Tax Act, 1961.

2. At the outset itself, the ld. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Ld. CIT(A) and the order being an *ex-parte* order, stood vitiated on account of violation of principle of natural justice. The learned Counsel for the assessee, submitted that there was delay in filing the appeal before the ld. CIT(A) by 44 days. The assessee has explained the reasons of such delay and sufficient cause for such delay, stating that assessment order itself was not received on time



from the department and thereafter the tax consultant of the assessee took some time to prepare the appeal and in this process, the delay of 44 days has occurred. Besides, the assessee did not know about the E- filing of the appeal and faceless proceedings before the Id CIT(A). Therefore, learned Counsel contended that delay of 44 should be condoned in filing the appeal before the Id. CIT(A) and matter may be restored back to the file of the learned CIT(A) to adjudicate the issue on merit.

3. Learned Senior DR for the Revenue debarred from objecting the stand of the Id. Counsel, however, he stated that assessee was negligent during the proceedings before the Id. CIT(A), therefore, a cost of Rs.500/- may be imposed on the assessee, which may be deposited in the Prime Minister National Relief Fund.

4. I have heard both the parties. Before me, the assessee has explained the sufficient cause for delay of 44 days in filing the appeal before the Id CIT(A). The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "**sufficient cause**" which means an adequate and enough reason which prevented him to approach the court within limitation. In considering the condonation petition, it is to be remembered that statutes conferring a right of appeal must be construed in furtherance of justice and the provision limiting the time for bringing an appeal must be liberally interpreted, so that the party pursuing such remedy allowed to him by the law is not non-suited on mere technicalities [*Chaman Lal Bros. P. Ltd. v. The Punjab State*, (1961) 12 STC 643 (Punj)]. I am of the view that provisions of law have to be adhered strictly and that one cannot be allowed to act in leisure and make a mockery of enacted law, because law & provisions are laid down to benefit both sides of litigation. Be that as it may, I have to do justice and the Hon'ble



Supreme Court in the case of Collector, Land Acquisition vs Mst. Katiji and Others, reported in 167 ITR 471, (1988 SC 897) (7) observes

“4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non- deliberate delay.”

When I weigh these two aspects then the side of justice becomes heavier and casts a duty on me to deliver justice. I, therefore, condone the delay in filing the appeal before the Id. CIT(A).

5. I note that the Id. 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 its 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 Ld. CIT(A) for fresh 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 Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order pronounced in the open court on 30/04/2025.

Sd/-

(Dr. A.L. SAINI)

लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date: 30/04/2025

DKP Outsourcing Sr.P.S



आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

// True Copy //

By order/आदेशसे,

सहायक पंजीकार
आयकर अपीलीय अधिकरण ,राजकोट