

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH "SMC", RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
(Physical court hearing)**

**ITA No.17/RJT/2025
Asstt. Year: (2017-18)**

Shvetang Balbhadra Vaishnav, Block No.453, Shashvat, Street No.16, Rajivnagar, Nr.Moti Baug, Junagadh 362 001. PAN : AAWPV 4357 M	Vs.	Income Tax Officer, Ward-1, Junagadh, Aayakar Bhavan, Kalwa Chowk, Junagadh-362 001
(Appellant)		(Respondent)

निर्धारिती की ओर से/Assessee by : Shri Mehul Ranpura, AR

राजस्व की ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Sr.DR

सुनवाई की तारीख/Date of Hearing : 12/03/2025

घोषणा की तारीख/Date of Pronouncement : 30/04/2025

आदेश / O R D E R

Dr. ARJUNLAL SAINI AM;

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order passed by Learned Commissioner of Income Tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi, vide order dated 12.02.2024, which in turn arises out of an order passed by the Assessing Officer, dated 07.11.2019, u/s.143(3) of the Income Tax Act, 1961.

2. The grounds raised by the assessee in the appeal are as follows:

"The grounds of appeal mentioned hereunder are without prejudice to one another.

2. Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as the "CIT(A)"] erred on facts as also in law in dismissing the appeal ex-parte without allowing adequate opportunity of being heard.



3. *The Id. CIT(A) erred on facts as also in law in confirming addition of Rs.20,22,000/- made on the alleged ground that the appellant failed to explain sources of cash deposit in the bank accounts held with Corporation Bank during demonetization period. The addition confirmed is unjustified and uncalled for, which deserves to be deleted, may kindly be deleted.*

4. *Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal."*

3. The appeal of the assessee is barred by limitation by 255 days. The assessee has moved a petition requesting the Bench to condone the delay. The contents of the petition for condoning the delay are reproduced below:

"I, the undersigned, Shvetang Vaishnav Son of Balbhadra Vaishnav residing at Rajivnagar, Moti Baug, Junagadh-362001 state the following on solemn affirmation:

1. *That the assessment in my case finalised vide order u/s. 143(3) of the Income-tax Act, 1961 [hereinafter referred as to the "Act"] dated 07.11.2019 assessing total income at Rs. 21,38,950/- after making addition of Rs.20,22,000/-*

2. *In an appeal filed, the Hon'ble Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi has vide order dated 12.02.2024 in appeal no. CIT(A), Rajkot-3/10492/2019-20 dismissed the appeal ex-parte.*

3. *The above stated order and notices during assessment proceeding & appellate proceeding have been served on primary email id vyotish.mankad@gmail.com which is registered with income tax department. This email id is belonging to my consultant. However, as he is also working as tax consultant / accountant of other organizations and used to receive number of emails in respect of many of his clients. Due to heavy workload, his office staff unintentionally forget to take necessary action about the emails of notices and appellate order. Therefore, due to his inadvertent laps, notice of hearing issued to the assessee had remained unattended and appeal finalized ex-parte by the CIT(A).*

Because of the circumstances as stated above there has occurred delay in filing appeals before the Hon'ble Income-tax Appellate Tribunal. Rajkot Bench. Rajkot. The delay in filing the appeals is not intentional but because of the inadvertent circumstances as stated above."

4. The Learned Counsel for the assessee, submitted that delay of 255 days had occurred because the assessee engaged tax consultant and the e-mail id belonging to his consultant, was vyotish.maankad@gmail.com to handle assessee's case. Due to heavy workload, office of consultant unintentionally forgot to take necessary action about notices and appellate order. Therefore, the



delay has occurred and this delay may be condoned, and the appeal may be decided on merit.

5. On the other hand, the Learned Senior DR for the Revenue opposed the prayer of the assessee for condonation of the delay.

6. I have heard both the parties on this preliminary issue. I note that the order of the Id.CIT(A) was served on other email-id and it was not served on the email-id registered with the Income Tax Department. Therefore, the assessee whenever, he got the order physically, he immediately took steps to file appeal before the Tribunal. Besides, there was mistake committed by the tax consultant of the assessee and therefore the assessee should not be penalized on account of mistake committed by his tax consultant. I note that this delay is neither intentional nor deliberate, therefore, in the interest of justice, I condone the delay and admit the appeal of the assessee for hearing on merit.

7. On merit, the Id. Counsel for the assessee submitted that the Id.CIT(A) has dismissed the appeal of the assessee without adjudicating the issue on merit and since the assessee has argued before the Id.CIT(A) that he would surely opt for VSVS scheme. Later on, the assessee found that he did not have money to be deposited in the VSVS scheme. Therefore, he contested the appeal on merit. The learned Counsel also submitted that assessee has appointed multiple advocates/ tax consultant, to handle this appeal, who have confused the assessee, and nobody appeared before the Id. CIT(A), therefore, the Id.CIT(A) dismissed the appeal of the assessee. The learned Counsel, therefore, prayed before the Bench, that one more opportunity should be given to the assessee to plead his case before the Id CIT(A).



8. The Id. DR for the Revenue debarred from objecting the stand of the Id. Counsel.

9. I have heard both the parties. I note that the assessee could not plead his case before the Id.CIT(A) and could not submit relevant documents and evidences on merit before the Id.CIT(A). I find that assessee has appointed multiple advocates/ tax consultant, to handle this appeal, who have confused the assessee, and nobody appeared before the Id. CIT(A), therefore, the Id.CIT(A) dismissed the appeal of the assessee. I am of the view that assessee should not be penalized on account of mistake of his advocate/ tax consultant. Therefore, I am of the view that one more opportunity should be given to the assessee to plead his case before the Id.CIT(A).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 *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 Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

10. 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 आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेशसे,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय आधिकरण ,राजकोट