

**IN THE INCOME-TAX APPELLATE TRIBUNAL “A” BENCH,
MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No. 1655/MUM/2025
(निर्धारण वर्ष / Assessment Year :2015-16)**

Ambekar Beverages and Food Pvt. Ltd. 129, 5 th Floor, 501-502, Shree Krupa, M. B. Raut Road, Shivaji Park, Dadar West, Mumbai, Maharashtra-400028	v/s. बनाम	ITO 6(1)(2), Mumbai Aayakar Bhavan, M.K. Road, Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAKCA7151R		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

निर्धारिती की ओर से /Assessee by:	Shri Bhupendra Shah
राजस्व की ओर से /Revenue by:	Shri Shekhar L. Gajbhiye

सुनवाई की तारीख / Date of Hearing	24.04.2025
घोषणा की तारीख/Date of Pronouncement	30.04.2025

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

This appeal is filed by the assessee against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai/National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] dated 20.09.2023 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as “Act”] for Assessment Year [A.Y.] 2015-16.

2. The assessee has raised the following grounds of appeal:

“1. In the facts and the circumstances of the case and in law, the learned AO erred in passing the order u/s. 144 by overlooking the fact that the male director had passed away and the female director is not capable of attending the proceedings and due to her condition she was unable to appoint a legal counsel to attend the assessment proceedings on her behalf.

2. In the facts and the circumstances of the case and in law, the learned AO erred in adding Rs.83,37,352/- as unexplained cash credit u/s. 68 by overlooking the fact that the ledger account of the Appellant shows opening balance of loans at Rs.35,72,764/- and closing balance at Rs.73,94,202/-

Without prejudice to the above:

3. In the facts and circumstances of the case and in law the additions should have been Rs.38,21,438/- (i.e, 7394202-3572764). This is a mistake apparent from record for which rectification u/s. 154 shall be filed by the Appellant.

4. In the facts and circumstances of the case and in law, the Assessing Officer also initiated penalty u/s. 271(1)(b) & (c) and charged interest u/s. 234A, B, C & D.

5. In the facts and circumstances of the case and in law, the learned Commissioner of Income Tax (A) erred in confirming the said additions.

[B] Relief Prayed:

The Appellant therefore prays follows,

1. To quash the order passed u/s 144.

2. To delete the addition of Rs. 83,37,352/- treated as unexplained cash credit u/s. 68.

3. To rectify the amount of addition to Rs. 38,21,438/- instead of Rs. 83,37,352/-.

4. To delete the interest charged u/s 234A, B, C and D & initiation of penalty u/s 271(1)(b), and 271(1)(c).”

3. At the outset, we note that the present appeal is delayed by 424 days. The assessee has filed an affidavit, along with supporting documentary evidence, to explain this delay. The reasons submitted are that the director of the assessee was unaware of the appellate order, and the previous consultant failed to inform the assessee to file the appeal before this Tribunal. It is further stated that a new consultant has now been appointed to represent the assessee .



On perusal of the facts stated in the assessee's affidavit, we find the explanation provided for the delay in filing the appeal to be reasonable. Hence, we hereby condone the delay of 424 days and admit the appeal for adjudication.

4. Brief facts of the case are that the assessee filed its return declaring loss of Rs. 26,76,382/- on 30.09.2015. The case was subsequently selected for scrutiny and Ld. Assessing Officer (Ld. AO) issued various notices to the assessee. However, there was no compliance by the assessee to these notices. As a result, Ld. AO proceeded to pass the assessment order u/s 144 of the Act dated 20.11.2012 determining the total income at Rs. 56,60,970/- .

5. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A). Ld. CIT(A) issued notices for hearing to the assessee on several dates, viz. 27.01.2021, 13.06.2023, 27.06.2023, and 23.08.2023. However, the assessee failed to make any compliance or submit the requisite written submissions and documents. Accordingly, Ld. CIT(A) dismissed the assessee's appeal exparte.

6. Being aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before the Tribunal. The Learned Authorised Representative (Ld. AR) has submitted before us that the reasons detailed in the affidavit for condonation of delay in filing the present appeal also explain the reasons for non compliance before the Ld. CIT(A) and the Ld. AO. Therefore, the Ld. AR has requested that the matter be remanded back to the Ld. AO for fresh consideration.



The Learned Departmental Representative (Ld. DR) has not controverted the proposition put forth by the Ld. AR.

7. In the interest of natural justice and to provide the assessee with a fair opportunity, we deem it appropriate to restore the matter to the file of the Ld. AO for fresh adjudication on merits. Ld. AO is directed to provide due opportunity to the assessee to present its case. The assessee is also directed to ensure complete and timely compliance before Ld. AO.

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

Order pronounced in the open court on 30.04.2025.

Sd/-

KAVITHA RAJAGOPAL

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 30.04.2025

अनिकेत सिंह राजपूत/ स्टेनो

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//



ITA No. 1655/Mum/2025
A.Y. 2015-16
Ambekar Beverage and Food Private Ltd.

आदेशानुसार/ BY ORDER,

**सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.**

