

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
(HYBRID HEARING)**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

I.T.A. No. 30/SRT/2025
(Assessment Year: 2021-22)

Rajkumar Munnial Gupta, 15, Devi Darshan Society, Nr. Police Colony, Bamroli Road, Pandésara, Surat-394210	Vs.	Income Tax Officer, Ward-2(3)(4), Surat
[PAN No. BDJPG9158A]		
(Appellant)	..	(Respondent)

Appellant by :	None for the Assessee
Respondent by:	Shri Mukesh Jain, CIT DR

Date of Hearing	23.04.2025
Date of Pronouncement	06.05.2025

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeal), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 19.10.2024 passed for A.Y. 2021-22.

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

“1. The learned CIT(A) has wrongly rejected my application for condonation of delay in filing the appeal.

2. The ‘A’ requests your Honour to provide one more opportunity to explain the case as ‘A’ was prevented by sufficient cause for not appearing before the ld. CIT(A), the ‘A’ requests to set aside the appeal to the file of CIT(A).

3. The ld. CIT(A) has not adjudicated the sole ground of addition of Rs. 18,54,410/-.”

3. At the outset, we observe that the appeal is time barred by 13 days. The delay of 13 days is condoned on due consideration of facts and owing to smallness of delay causing no perceptible prejudice to other side.

4. The brief facts of the case are that during the course of assessment, the Assessing Officer observed that the assessee had made net profit from futures and options trading amounting to ₹18,85,410/- which had not been offered to tax. Further, the Assessing Officer observed that the assessee had made net profit of ₹40,356/- in equity stocks, which again had not been offered to tax by the assessee in the return of income. During the course of assessment, the Assessing Officer issued several notices of hearing, in response to which the assessee did not appear and filed only a single reply in which the assessee did not give any satisfactory explanation. Accordingly, the assessing officer made addition of ₹18,85,410/- and ₹40,356/- to the income of the assessee. While passing the order, the assessing officer made the following observations:

“4.4 Conclusion drawn:

The assessee has not complied to the showcause notice till date nor submitted any reply. Therefore, it is evident that the assessee has no substantial documents or valid explanation to counter the variation proposed. In spite of granting sufficient opportunities, the assessee did not furnish the requisite documents as called for. The assessee failed to explain the discrepancy in the Profit & Loss statement of F&O trading. In the absence of any submission from the assessee in this respect, the profit of Rs.18,85,410/- form F&O Trading and Rs.40,356/- from share trading is to be treated as undisclosed business income of the assessee and added to the total income of the assessee. Penalty proceedings U/S.270A of the I.T. Act, 1961 is initiated separately for under-reporting of income.”

5. In appeal, Ld. CIT(Appeals) observed that the appeal was time barred by a period of 160 days. When asked to provide an explanation for the delay, the assessee gave a very brief explanation that the appeal could not be filed in time since: “the assessee was out of station for medical treatment for a family

member”. Accordingly, Ld. CIT(Appeals) was of the view that in absence of satisfactory explanation, the delay of 160 days in filing of appeal could not be condoned. Accordingly, the appeal of the assessee was dismissed as barred by limitation.

6. Before us, none appeared on behalf of the assessee and an adjournment application was filed by the counsel for the assessee with the reason “I request your honour to adjourn the hearing as I am out of station”. When the matter was called up for hearing, none appeared on behalf of the counsel for the assessee. Accordingly, we are of the considered view that there has been consistent non-compliance and non-cooperation by the assessee all throughout the proceedings both at the stage of assessment, at the appellate stage before Ld. CIT(Appeals) and also before us as well. However, in interest of justice, one final opportunity is given to the assessee and the matter is restored to the file of Assessing Officer to allow the assessee to present its case on merits, since there has been no explanation/supporting documents which had been filed by the assessee at any stage of the proceedings before any of the Tax Authorities to take a considered call on the matter. However, we make it clear that in case there is further non-cooperation on part of the assessee before the assessing officer, the assessing officer would be at liberty to pass appropriate orders, on the basis of material available on record, in accordance with law.

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

Order pronounced under proviso to Rule 34 of ITAT Rules, 1963 on 06/05/2025

Sd/-
(BIJAYANANDA PRUSETH)
ACCOUNTANT MEMBER

Ahmedabad; Dated 06/05/2025

TANMAY, Sr. PS

TRUE COPY

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत / DR, ITAT, Surat
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, सूरत/ ITAT, Surat