



**आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"**  
**RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.264/RJT/2025**

**निर्धारण वर्ष/Assessment Year : 2018-19**

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| Shyamjkrushna<br>Township.<br>Flat No. C 408, Nr. Ami<br>Residency, Opp. Sunrise<br>School, Sadhuvashavi Road,<br>Rajkot-360 001 | Varma<br>बनाम/<br>Vs | Income Tax Officer,<br>Ward-2(1)(1), Rajkot, Aaykar<br>Bhavan, Race Course Ring<br>Road, Rajkot-360 001 |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAUAS 2513 H  |                      |   |
| (अपीलार्थी/Appellant)  |                      | (प्रत्यर्थी/Respondent)   |

निर्धारिती की ओर से/Assessee by : Shri Brijesh Parekh, AR  
राजस्व की ओर से/Revenue by : Shri Dheeraj Kumr Gupta, Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **15/05/2025**  
घोषणा की तारीख/**Date of Pronouncement** : **16/05/2025**

**आदेश/Order**

**Per Dr. Arjun Lal Saini, A.M**

Captioned appeal filed by the assessee, pertaining to Assessment Year 2018-19, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 09.10.2024, which in turn arises out of an order passed by the Assessing Officer u/s 147 r.w.s. 144B of the Act, on 27.03.2023.

2. The appeal filed by the assessee, is barred by limitation by 114 days. The assessee has moved a petition requesting the Bench to condone the delay. The relevant contents of the petition for condoning the delay are reproduced below:



*“7) There is no regular accountant nor any person conversant with the matter, the affairs who are handed by the ordinary member who was also not conversant with the procedures & proceedings as a result of which the appeal has been dismissed. Further to the password as also not available with the person concerned, as a result of which the appeal filed before the Ld.CIT(A) has been dismissed for want of details.*

*8) Given the above facts it is most respectfully submitted that the additional evidences as may be filed in the course of hearing of this appeal may kindly be admitted as such u/s 46A. There is some delay in filing the appeal and this is because of the fact that the person concerned was not conversant with the matter and he had handed over some to his acquaintance who could not get the appeal filed before the Hon’ble Bench in time, resulting in delay. It is prayed that the delay in filing the appeal may kindly be condoned.”*

3. It was argued by Ld. Counsel for the assessee that delay was because of unawareness about service of notice on the portal. The assessee’s appeal was being handled by an ordinary person who does not have knowledge about taxation matters, and because of this, the Ld. CIT(A) passed *ex-parte* order and appeal was also filed before this Tribunal late by 114 days. Because of the mistake of the tax consultant, who does not have adequate knowledge of taxation, the assessee should not suffer. The assessee did not have any knowledge of impugned order passed on 09.10.2024. It was stated that assessee had no intention in delay filing the appeal. The Ld. Counsel submitted that the small delay in filing the appeal was neither deliberate nor intentional. The assessee is not going to be benefited by filing the appeal late. The consultant on whom the appeal was outsourced could not inform about any of notice nor the fact regarding impugned order being uploaded on the portal was shared with the assessee, hence, there was delay of 114 days, in filing the appeal. Therefore, this delay may be condoned, and the appeal may be decided on merit.

4. On the other hand, the Learned Senior DR for the Revenue opposed the prayer of the assessee for condonation of the delay and stated that assessee’s appeal may be dismissed.

5. I have heard both the parties on this preliminary issue. I note that the order of the Ld.CIT(A) was served on other email-id and it was not served on the



email-id registered with the Income Tax Department. Besides, the tax consultant appointed by the assessee did not have adequate knowledge to handle the taxation matters. However, the assessee whenever, he got the order physically, he immediately took steps to file appeal before the Tribunal. There was also mistake committed by the tax consultant of the assessee, therefore the assessee should not be penalized on account of mistake committed by the tax consultant, who did not have adequate knowledge to handle the taxation matters. 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.

6. On merit, the Id. 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, passed by the learned CIT(A) without adjudicating the various issues, on merit. The Ld.Counsel of the assessee filed additional evidences, which was not submitted before the lower authorities, due to unavoidable circumstances. The Ld. Counsel of the assessee submits that the Ld.CIT(A) passed the order u/s 250 of the Act, on 09.10.2024 without hearing the assessee, which is in violation of the principles of natural justice. The assessee could not represent his case before CIT(A) and the order being an *ex parte*, stood vitiated on account of violation of principles of natural justice. The assessee could not appear before the CIT(A) due to circumstances beyond its control. Adequate opportunity of hearing was also not given to the assessee; during the assessment proceedings, therefore, Id. Counsel contended that one more opportunity should be given to the assessee to plead his case before the assessing officer. The Id. Counsel undertakes to be vigilant and furnish explanation and details expeditiously.



7. On the other hand, Ld.Sr-DR for the Revenue supported the order of lower authorities. He stated that assessee has been negligent in pursuing the appeal before Ld.CIT(A), therefore, appeal of the assessee should be dismissed.

8. I have heard both the parties and perused the material available on record. I find that both lower authorities have passed *ex parte* orders. Evidently, the assessee did not comply with the notices issued by AO and Ld.CIT(A), as the notices were not served on him. Hence, addition u/s 69A of Rs.81,00,000/- and u/s 57 of the Act of Rs.2,51,685/- have been made by AO, which was confirmed by Ld. CIT(A). The Ld. Counsel of assessee submitted that non-compliance by assessee was not deliberate but due to unavoidable circumstances. He has submitted various details which were not submitted before AO or Ld.CIT(A). Rule-29 permits ITAT to admit additional evidence for any substantial cause. The Ld. Counsel submitted that non-compliance was due to unavoidable circumstances. Hence, the additional evidences may be admitted. After considering the contentions of both the parties, I find that Ld.CIT(A) has not passed an order as per the mandate of section 250(6) of the Act and dismissed the appeal of assessee only on the ground of non-compliance. The order passed by the Ld.CIT(A) is clearly violative of the express provisions of section 250(6) of the Act, which provides that the appellate orders of the Ld.CIT(A) are to state the points arising in the appeal, the decision of the authority thereon and the reasons for such decisions. The underlying rationale of the provision is that such orders are subject to further appeal to the appellate Tribunal. Speaking order would obviously enable a party to know precise points decided in his favour or against him. Considering the facts and circumstances of the case and the fact that the assessment order was confirmed by Ld.CIT(A) in *ex parte* order, I am of the considered view that the assessee deserves one more opportunity to contest its case on merit. In the interest of justice, I set aside the order of Ld.CIT(A) and remit the matter back to the file of AO with a direction to pass



fresh order in accordance with law after granting adequate opportunity of hearing to assessee. The assessee is directed to be vigilant and to furnish all details and explanation as needed by AO by not seeking adjournment without valid reason. With this direction, the grounds of appeal raised by the assessee are treated as allowed for statistical purposes.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 16/05/2025.**

Sd/-

**(Dr. A.L. SAINI)**

**लेखा सदस्य/ACCOUNTANT MEMBER**

राजकोट/Rajkot

दिनांक/ Date: 16/05/2025

*DKP Outsourcing Sr.P.S*

आदेश की प्रतिलिपि अत्रेषित/ 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/आदेश से,

// True Copy //

सहायक पंजीकार

आयकर अपीलीय अधिकरण, राजकोट