



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 Nos.152 & 153/RJT/2025

निर्धारण वर्ष/Assessment Years : 2010-11 & 2012-13

Jitendrakumar Amritlal Kalidas Shah 1803 B-Rimal 2, Premises No. 392140551392, Marsa Dubai – 215 394	बनाम/ Vs	Assistant Commissioner of Income-tax Officer, Circle-3 (1), Rajkot/ Assistant Commissioner of Income-tax International Taxation AC/DC(Int.Txn.) Rajkot, Amruta Estate, M.G. Road, Beside Girnar Cinema, Rajkot-360 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BKUPS 7510 Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारित की ओर से/Assessee by : Shri Samir Bhuptani, AR
राजस्व की ओर से/Revenue by : Shri Dheeraj Kumr Gupta, Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **14/05/2025**

घोषणा की तारीख/**Date of Pronouncement** : **20/05/2025**

आदेश/**Order**

Per Dr. Arjun Lal Saini, A.M

Captioned two appeals filed by the assessee, pertaining to Assessment Years 2010-11 and 2012-13, are directed against the separate orders passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") Commissioner of Income-tax (Appeals)-13, Ahmedabad all, dated 26.12.2024, which in turn arose out of separate assessment orders passed by Assistant Commissioner of Income-tax, International Taxation/Assessing Officer u/s 144 r.w.s 147 r.w.s 143(3) of the Act, on 18.12.2017 and 06.12.2019 respectively.



2. Both the appeals have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.

3. At the outset, the Ld. Counsel for the assessee submitted that both the appeals were filed by assessee manually process, as assessee was not aware about e-filing system. Therefore, Ld. CIT(A) did not admit both the appeals in view of the extended window for filing e-appeals, taxpayers who could not successfully e-file appeal. The appeals are required to file an e-appeal in accordance with Rule 45 before the extended period i.e. 15.06.2016. Therefore, in absence of electronically filed appeals the Ld.CIT(A) unadmitted and dismissed both the appeals of the assessee. The Ld. Counsel for the assessee also submitted that in A.Y 2010-11, there was no awareness about filling the appeal electronically and the assessee used to file the appeal manually. The Ld. Counsel also submitted that the assessee was not known about registered e-mail and whom to file the appeal electronically. The Ld. Counsel also submitted that, just because the assessee has filed the appeal manually before the Ld. CIT(A) does not mean that the justice should be denied to him. The Ld. Counsel of the assessee submitted that assessee has a good case on merit and is likely to succeed, if one more opportunity is given to assessee to contest his case before ld CIT(A). The Ld. Counsel of the assessee submits that he undertakes on behalf of assessee to be more vigilant in future and to file all necessary details and evidence on first date of hearing, before the ld. CIT(A).

4. On the other hand, the Ld. Senior DR for the revenue submitted that the assessee has filed the appeal before the Ld. CIT(A) in manual procedure. In the method, prescribed by the CBDT, and CBDT has especially announced that appeal before the Ld. CIT(A) are to be filed electronically. Therefore, there was breach of duty on the part of the assessee not to file the appeal electronically before the Ld. CIT(A).



5. I have heard both the parties and perused the material available on record. I noted that the Ld. CIT(A) dismissed and unadmitted as non-est both the appeals of the assessee and observed as follows:

“8.3 Thus, the time period for filing e-appeals was extended and the persons who had filed the appeal on paper (manually) were allowed additional time to e-file the said appeal upto 15.06.2016. In this case, it is seen that the appellant was required to file Rol electronically in accordance with Rule 12 of the Income-tax Rules. So, it's case does not fall in the exempt clause of Rule 45(2)(b). He was mandatorily required to electronically file the appeal in accordance with the provision of Rule 45(2)(a)/(b) without a condonation petition upto 15/06/2016 and with condonation petition after that date. The appeal was filed on paper, manually. No electronic appeal was filed on a later date. Therefore, in the absence of electronically filed appeal, the aforesaid appeal is non-est and dismissed.”

6. I find that the assessee has filed both appeals manually, and I noted that since 2016, was a beginning period of implementing rules which were introduced, in Income Tax Act Rule to file the appeal electronically. In 2016, since it was beginning period to file the appeal electronically before the Ld. CIT(A), however, the assessee filed manually, which does not mean that the assessee should be deprived from the justice. I find that the assessee filed both appeals before the Ld.CIT(A) in manually and not as per the rule 12 of the Income Tax Act Rules, however, the facts remain that assessee should not be denied justice just because of these procedural formalities. I also noted that, in year 2016 it was just beginning and there was not much awareness about the filing the appeal electronically before the Ld. CIT(A), therefore, just because the assessee filed manually, does not mean that the assessee denied for justice. Because of this small breach or mistake by the assessee not to file appeal as per Rules 12 of the Income Tax Rules, the justice should not be denied to assessee. I find that before me, the ld. Counsel of the assessee has made a limited prayer for restoring the appeal to the file of Ld. CIT(A) for the reasons that assessee could not e-file his appeals before Ld.CIT(A) due to unawareness about e-filing system. Considering the facts and circumstances of the case and undertaking by ld. Counsel of the assessee that assessee will be more vigilant in future in



making compliance, the matter is restored back to the file of Ld.CIT(A) to decide the issue afresh on merit, after giving reasonable opportunity of being heard to assessee. I find that after all justice not only to be done, it is seen to be done. Therefore, I set aside both the orders of Ld. CIT(A) and remitted back to the file of the Ld.CIT(A) with the direction to admit both the appeals of assessee and adjudicate the appeals on merit. Needless to direct that before passing order afresh, the Ld.CIT(A) shall provide reasonable opportunity of hearing to the assessee. The assessee is also directed to be more vigilant and to make timely compliance of the notice issued by Ld.CIT(A). With these directions, the grounds of appeal of assessee are allowed for statistical purposes.

7. In the result, both the appeals of the assessee are allowed for statistical purposes in above terms.

Order pronounced in the open court on 20/05 /2025.

Sd/-

(Dr. A.L. SAINI)

लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट /Rajkot

दिनांक/ Date: 20/05/2025

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