

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH, AHMEDABAD**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &  
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 171/Ahd/2025  
(निर्धारण वर्ष / Assessment Year : 2017-18)

<b>Kanubhai Rahabhai Bharvad</b> Laxmi Duplex, Behind Vraj Bungalows, Harni Airport Road, Karelibaug, Vadodara, Gujarat - 390022	<b>बनाम/ Vs.</b>	<b>DCIT, Circle 2(1)(1)</b> Vadodara
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AGKPB9677N		
(Appellant)	..	(Respondent)

□ पीलार्थी ओर से /Appellant by :	Shri Hemant Suthar, AR.
प्रत्यर्थी की ओर से/Respondent by :	Shri Rignesh Das, CIT-DR

<b>Date of Hearing</b>	15/05/2025
<b>Date of Pronouncement</b>	22/05/2025

**ORDER**

**PER SHRI NARENDRA PRASAD SINHA, AM:**

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre, Delhi, (in short ‘the CIT(A)’), dated 28.11.2023 for the Assessment Year (A.Y.) 2017-18.

2. There was a delay of 359 days in filing of this appeal. The assessee has filed an affidavit explaining the reason of delay. It has been submitted that the assessee is a semi-literate person with no knowledge of Income-tax laws and no computer knowledge to

log in to Income-tax portal. The notices of CIT(A) were received on the email-id of one Shri Sonu Prajapati, in whose name license of petrol pump was being run by the assessee. That the notices received on this email was never communicated to the assessee, as a result no compliance could be made before the CIT(A). Further, the order of CIT(A) received on same email was also not communicated to him. When the assessee had enquired with his chartered accountant about the fate of the appeal filed with CIT(A), he had logged in to Income tax portal and informed that the order was already passed. Thereafter, the present appeal was filed as per advice of the chartered accountant and in the process there was delay of 359 days. It was submitted that the delay in the filing of the present appeal was not intentional but due to lack of communication with Shri Sonu Prajapati whose email id was mentioned in Form 35 and that there was no mala-fide intention on the part of the assessee. The Id. CIT-DR, on the other hand, objected to the condonation of delay on the ground that the assessee has not neither complied before the lower authorities nor properly explained the delay.

2.1 We have considered the explanation of the assessee. It is found from Form 35 that email address mentioned therein was [sonuprajapati399@yahoo.in](mailto:sonuprajapati399@yahoo.in) and an option was given to receive communication on this email-id. As explained, the delay was due to fault of Shri Sonu Prajapati who didn't inform the assessee about the notices and about the final order of the CIT(A). Though the assessee should have remained vigilant for the timely action on his part, the fact remains that the AO had treated the entire

cash deposit/credits in the bank account as income of the assessee. If the delay is not condoned and the matter is not examined on merits, it will cause injustice to the assessee, as only the profit element arising out of the bank transactions was required to be taxed. It has been held by Hon'ble Gujarat High Court in the case of *Vareli Textile Industries (154 Taxman 33) (Gujarat)* that while rejecting application for condonation of delay in filing appeal/cross-objections, meritorious case should not be thrown out on ground of limitation. Considering the fact that all the entire credit entries in the bank account was treated as income of the assessee and the matter was not examined on merits, the delay in filing the present appeal is condoned.

3. The brief facts of the case are that the assessee had filed his return of income for the A.Y. 2017-18 on 31.03.2018 declaring income of Rs.32,78,060/-. The case of the assessee was selected for complete scrutiny under CASS. In the course of assessment, no compliance was made by the assessee. From SFT data available in ITBA portal, AO had the information that huge cash deposits were made in the bank accounts of the assessee during demonetization period. During assessment, the AO had made enquiries u/s 133(6) of the Act from the bank and found that total deposit of Rs.11,07,13,730/- was appearing in the two bank accounts of the assessee. In the absence of any explanation on the part of the assessee, the Assessing Officer treated the entire deposits/credit entries in the bank accounts as unexplained money of the assessee under section 69A of the Act. The assessment was completed under Section 143(3) of the Act on 16.12.2019 at total income of Rs.11,39,91,790/-.

4. Aggrieved with the order of the Assessing Officer, the assessee had filed an appeal before the First Appellate Authority which was decided vide the impugned order and the appeal of the assessee was dismissed.

5. The assessee is now in second appeal before us. The following grounds have been taken in this appeal: -

- “1 *The Ld. CIT (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in law and in facts in passing the order without giving proper opportunity of being heard and thus, the order so passed is prayed to be set aside.*
2. *The Ld. CIT (Appeals), NFAC has erred in law and in facts in confirming the action of the Ld. A.O. in holding that the amount of Rs.11,07,13,730/- deposited in the bank account during the year under consideration represents unexplained credit u/s. 69A of the I.T. Act r.w.s. 115BBE. The addition of Rs.11,07,13,730/- being in complete disregard of the fact and the law is prayed to be deleted.*
3. *Without prejudice to Ground No.3 above, the Ld. CIT (Appeals), NFAC has further erred in law and in facts in confirming the action of the Ld. A.O. in the addition of Rs.11,07,13,730/- twice, one when such amount is included by the appellant in the sales and secondly, as unexplained deposit. The addition of Rs.11,07,13,730/- having resulted into double addition of the same income is prayed to be restricted to either of the one.*
4. *Your appellant craves liberty to add, alter, amend substitute or withdraw any of the ground(s) of appeal hereinabove contained.”*

6. Shri Hemant Suthar, Ld. AR of the assessee submitted that the Ld. CIT(A) has dismissed the appeal of the assessee without examining the merits of the addition. He explained that no compliance could be made by the assessee before the Ld. CIT(A) and for this reason the appeal was dismissed. He, therefore, requested that the assessee may be allowed another opportunity to explain the deposits in the bank account and the matter may

be set aside to the file of the Assessing Officer. The Id. AR submitted that the entire deposits in the bank accounts were included in the sales of the assessee and, therefore, the AO was not correct in treating the total deposits as unexplained money and making the addition.

7. Per contra, Shri Rignesh Das, Ld. CIT-DR submitted that the assessee neither made compliance before the Assessing Officer nor before the Id. CIT(A). He further submitted that the Id. CIT(A) had allowed as many as nine opportunities to the assessee but no compliance was made by the assessee on any of these occasions. The Id. CIT-DR, therefore, strongly supported the orders of the lower authorities.

8. We have considered the rival submissions. The undisputed fact is that the assessee neither complied before the Assessing Officer nor before the Ld. CIT(A) and the source of the credits appearing in the bank account was not explained. We, therefore, deem it proper to **impose a cost of Rs.10,000/- on the assessee which should be paid to the Prime Minister National Relief Fund within 15 days of the receipt of this order.** We are also of the opinion that the Assessing Officer was not correct in treating the entire deposits/credit entries in the bank account as income of the assessee without taking into account the debit transactions. The Id. AR of the assessee has submitted that deposits in the bank accounts were included in the sales of the assessee but no evidence in this regard had been brought on record. The assessee had filed a copy of ITR for A.Y. 2017-18 as per which sales of Rs.15,70,96,009/- was disclosed therein. However, the books of the assessee were not audited in spite of this huge turnover. Be that as it may, the contention of the assessee that the deposits/credit entries in the bank account represented his turnover, requires to be verified. We, therefore, deem it

proper to **set aside the matter to the file of the Jurisdictional Assessing Officer with a direction to allow another opportunity to the assessee to explain the source of cash deposits and the credit entries appearing in the bank accounts.** The assessee will be free to bring on record the evidences before the Assessing Officer, to explain the cash & credit entries as appearing in the bank accounts. The assessee is also directed to appear before the Assessing Officer and not to seek any adjournment. The AO will proceed in the matter after verifying that the cost as imposed on the assessee is paid by him. The grounds taken by the assessee are allowed for statistical purpose.

9. In the result, the appeal of the assessee is allowed for statistical purpose.

**This Order pronounced on 22/05/2025**

Sd/-

Sd/-

(SANJAY GARG)  
**JUDICIAL MEMBER**

(NARENDRA PRASAD SINHA)  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 22/05/2025

**आदेश की प्रतिलिपि □ ग्रेषित/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, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad