



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH,
RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No. 821 /RJT/ 2024

(निर्धारणवर्ष / Assessment Year: (2018-19)

(Hybrid Hearing)

Rupaben Vimalbhai Padaliya C1 – 1101, Dreamcity, Raiya Dhar, Rajkot – 360007	Vs.	The DCIT, Circle – 1(1), Aayakar Bhavan, Race course Ring Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: DAUPP8899B		
(Appellant)		(Respondent)

Appellant by : Shri Mehul Ranpura, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing : 26/03/2025

घोषणाकीतारीख/Date of Pronouncement : 09/06/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 14.08.2024, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 147 r.w.s. 144 of the Income Tax Act, 1961 (in short “the Act”), vide order dated 27.03.2023.

2. Grounds of appeal raised by the assessee are as follows:

1. The grounds of appeal mentioned hereunder are without prejudice to one another.



2. The learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as the "CIT(A)" erred on facts as also in law in dismissing appeal ex-parte.

3. The Ld. CIT(A) erred on facts as also in law in rejecting the appellant's application for condoning delay in filing the appeal. The appeal may kindly be directed to be decided on merits.

4. The Ld. CIT(A) erred on facts as also in law in rejecting ground of appeal related to validity of notice issued u/s 148 of the Income tax Act, 1961. That on facts as also in law, proceedings-initiated u/s. 147 of the Act is invalid and assessment finalized on such invalid initiation deserves to be quashed and may kindly be quashed.

5. The Ld. CIT(A) erred on facts as also in law in confirming addition made of Rs.15,51,000/-u/s.69 r.w.s. 115BBE of the Act on the alleged ground of that appellant failed to explain source of payment made for purchase of flat at Dream City, Rajkot. The addition confirmed is totally unjustified and uncalled for and deserves to be deleted and may kindly be deleted.

6. Your Honor's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.

2 At the outset, Learned Counsel for assessee submitted that there was delay in filing the appeal for 138 days, before Ld. CIT(A). The assessee filed the petition for condonation of delay before the Ld. CIT(A) and explained the sufficient cause for the delay, however, despite of this, the ld. CIT(A) did not condone the delay and dismiss the appeal of the assessee, without adjudicating the various issues, raised by the assessee, on merit. The ld. CIT(A) did not adjudicate the assessee's appeal, on merit. The Learned Counsel, therefore, prayed before the Bench that the delay may kindly be condoned and the matter may be remitted back to the file of the ld. CITA for fresh adjudication, on merit.

3. On the other hand, Learned Sr. DR for revenue submitted that the assessee has failed to explain the sufficient cause for the delay, in filing the appeal before the Ld. CIT(A). The ld. DR stated that the Ld. CIT(A), has rightly dismissed the appeal of the assessee.



4. We have considered the rival submissions and perused the relevant finding given in the impugned order of Id. CIT(A). We find that during the appellate proceedings, the assessee submitted the following reasons, for condonation of delay:

"The assessee has not filed return of income due to income below the taxable limit. The assessee do not have registration in web portal, hence no notice/order/letter issued by the department. Appellant neither received any electronic communication in digital form/electronic mode not received physical communication. So we request to condone the delay in filling the Appeal. So delay in appeal, kindly consider and take for necessary process."

5. We note that where a case has been presented in the court beyond limitation, the assessee has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. However, in the assessee's case under consideration, the assessee was active and explained the sufficient cause stating that assessee was come to know about assessment order, when demand notice and challan was received from Jurisdictional Income Tax Officer. Thereafter, the assessee filed the appeal before the Id. CIT(A) immediately. Therefore, we find that explanation was provided by the assessee, which can be treated as a sufficient or good reason for condoning the delay of 138 days. A perusal of the reasons for condonation of delay, submitted by the assessee before the Id. CIT(A), gives us an impression of existence of mitigating circumstances to enable us to exercise our discretion in favour of the assessee. Accordingly, the delay is condoned before Id. CIT (A).



6. Brief facts of the case the appellant an individual is working as a property interior designer on small scale basis and her taxable income was below the maximum amount not chargeable to tax. Therefore, the appellant was not required to furnish return of income u/s. 139(1) of the Income-tax Act, 1961 (hereinafter referred to as "Act") and hence, the assessee has not filed her return of income for the year under consideration.

i. Under the above-stated circumstances, it is submitted that the appellant had not received any notice or letter or order from the Income-tax Department in the assessment proceeding initiated and completed for the year under consideration and consequently, entire proceeding was undertaken in absence of appellant's knowledge. Therefore, this appeal is being filed belatedly with humble request to condone the delay in filing an appeal

ii. The fact of the case is that the appellant Smt. Rupaben Vimalbhai Padaliya and her husband Shri Vimalbhai Bhikhubhai Padaliya, both have jointly purchased the property being residential flat no. C1-1101 in project "Dream City", Rajkot from the builder namely M/s. Six Twenty Realty Pvt. Ltd. vide conveyance deed registered at serial no 4516 dated 26.06.2018. Total value of purchase consideration paid by the appellant and her husband is Rs. 12,50,000/-, which is funded from the housing loan received from HDFC Bank Ltd.

iii. Deputy Commissioner of Income-tax, Circle-1(1), Rajkot (hereinafter referred as to the "JAO"] vide notice issued u/s.148A(b) of the Act dated 19/03/2022 proposed to initiate the proceeding u/s. 147 of the Act against the appellant on the alleged ground that survey proceedings was carried out on 02.04.2019 in the case of M/s. Six twenty Realty Private Limited and during the survey, statement of Shri Ashutosh Ganatra was recorded, wherein, he had admitted the receipt of on-money on sale of units in project



"Dream City". The JAO alleged that as per the digital data impounded and statement recorded from Shri Ashutosh Ganatra, the appellant has made payment of Rs.12,50,000/- in cheque and Rs.3,01,000/-in cash. The AO alleged that source of unaccounted payment made as per the impounded document and statement recorded from Shri Ashutosh Ganatra remained unexplained. Consequently, the order u/s 148A(d) has been passed on 29.03.2023 and notice u/s. 148 of the Act has been issued on 29.03.2023requiring the appellant to file return of income for the assessment year under consideration. This leads to the finalization of the assessment proceeding ex-parte u/s. 147 r.w.s. 144 of the Act. The AO finalized the assessment vide order passed u/s.147 r.w.s. 144 of the Act dated 27.03.2023 assessing the total income of the appellant at Rs.15,51,000/-on the alleged ground of unexplained investment made for purchase of flat no. A-1101-C1 at Dream City, Rajkot, which includes document value of Rs. 12,50,000/- and alleged unaccounted cash payment / on-money of Rs. 3,01,000/-.

7. The Ld. CIT(A) has issued the several notices for hearing but the assessee did not submit the requisite documents/details before the Ld. CIT(A). Therefore, the Ld. CIT(A) has dismissed the appeal.

8. That the assessee filed an appeal against the impugned order passed by the Ld. CIT(A), vide order dated 14.08.2024 before the Tribunal.

9. During the course of hearing, the Ld. AR of the assessee has submitted that the assessee is working as a property interior designer on small scale basis. However, assessee's income was below the taxable income. Therefore, the Ld. AR of the assessee prayed that one more opportunity to be given to the assessee to represent the case before lower authority.



10. On the contrary, Ld. Sr. DR for the revenue on the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR of the assessee.

11. We have heard both the parties and perused the material available on record. We noted that the several notices have been issued by the Ld. CIT(A) for hearings of the case. We further note that the order of the CIT(A) is silent on service of notices upon the assessee. That the Ld. CIT(A) has dismissed the appeal of the assessee in *limine* without going into merits of the case. We note that the assessee has not made the compliance with the notices for hearing issued by the Ld. AO/JAO. That the assessment was framed u/s. 147 r.w.s. 144 of the I. T. Act by the Ld. AO/JAO. In interest of justice, we are of the view that an opportunity should be given to the assessee to present his case before lower authority, we set aside the order of the Ld. CIT(A) order dated 14.08.2024 and the Ld. AO/JAO an order dated 27.03.2023 and remand the matter back to the file of the Ld. AO/JAO for fresh adjudication on merits. After giving due opportunity to the assessee and the assessee is further directed to the assessee to submit all the required documents/ details/ evidences in support of the income earned during the year.

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

Order pronounced in the open court on 09-06-2025.

Sd/-
(A. L. SAINI)
ACCOUNTANT MEMBER

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Rajkot

(True Copy)

दिनांक/ Date: 09/06/2025

Copy of the Order forwarded to



1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot