



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.121/RJT/2025

Assessment Year: (2016-17)

(Hybrid Hearing)

Ishita Mahesh Hadvani 504, Hetvee Tower, Azad Society, S. O. Ahmedabadz- 380015	Vs.	Income Tax Officer, Ward – 2(1)(2) IT – Office, New Aayakar Bhavan, Vatiaka, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AJLPH0459E		
(Appellant)		(Respondent)

Appellant by : Shri Kamal Bhambhani, Ld. A.R.

Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing : 05/06/2025

Date of Pronouncement : 06/06/2025

आदेश/ ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2016-17, 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 (Appeal), dated 26.06.2023, which in turn arises out of an order passed by the Assessing Officer u/s 144 of the Act, on 19.12.2018.



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 Commissioner of Income Tax (Appeals) (hereunder are without referred to as the "Ld. CIT(A)") erred on facts by passing the order without considering the fact that the appellant was residing outside India Since 2017.*
- 3) *Ld. CIT(A) erred on facts as also in law in holding that the appellant had failed to explain the source of money of Rs. 40,70,000/- and making the addition of Rs. 40,70,000/- considering that the money which were paid through regular banking channels to IIFL viz, the broker and duly recorded in audited books of accounts a unexplained income. The order of the LD. CIT(A) is baseless and totality unwarranted under the circumstances and facts of the appellant's case and deserves to be quashed and therefore may kindly be quashed.*

3. That at the outset, it is noted that the appeal filed delay for 541 days by the assessee. Therefore, the assessee filed an application for condonation for delay above with the affidavit in support of affidavit the relevant para of the affidavit are reproduced as under:

"I, Ishita Mahesh Hadvani, daughter of Mahesh Hadvani, identified by PAN AILPH0459E, at present residing at 504. Hetvee Tower, 100 feet ring road, Anandnagar, Ahmedabad - 380015 do solemnly affirm and state on oath as under:

- 1) *The order u/s. 250 of the Income-tax Act, 1961 was passed on 26/06/2023.*
- 2) *I came to know about the rejection order passed only after receipt of the notice under 142(1) which was sent on 14-10-2024.*
- 3) *The appeal could not have been filed within the time allowed due to following reason:*

I was residing abroad since 2017. (Copy of the affidavit along with copy of my passport showing my absence from India during the said period is attached). Moreover, the email address on which the notices were served during the course of assessment proceedings belonged to my Chartered Accountant who failed to inform and guide me regarding the assessment proceedings. I was completely unaware about the assessment proceedings and appellate proceedings and hence there was non-compliance."

4. We have heard rival contention of both the party on the issue of condonation of delay. We have perused the record available before us. We noted that accountant of the firm, who was looking after the litigation work of the assessee



before the Ld. CIT(A) has missed to give attention to the notice received on e-mail from the department, since the accountant did not inform to the assessee about the appellate proceedings. The assessee was unaware about the proceedings going on before the Ld. CIT(A) by the assessee. We noted that there is sufficient cause for not complying the notice of hearing issued by the Ld. CIT(A). Therefore, we condoned the delay and heard the appeal on merit.

5. Brief facts of the case are that the appellant, an individual has filed her return of income on 16/10/2016 declaring total loss of Rs. 5.05.944/-. The Appellant is dealing in shares and securities. The case of the appellant has been selected for complete scrutiny with the reason of whether sales turnover/ receipts has been correctly offered for tax and whether the investment and income related to securities transactions are duly disclosed. The Ld. Assessing officer (herein after referred to as the AO) completed the assessment u/s. 144 of the Income-tax Act, 1961 (herein after referred to as the Act) vide his order dated 19/12/2018 by assessing total income at Rs. 35.64.056/-. The Ld. AO in his order alleged that appellant had deposited various cheques amounting to Rs 40,70.000/- in total in the financial account maintained with IIFL viz. the broker. Appellant had accepted sum of Rs. 40.70.000/- from Konark Enterprise to meet short term funding requirements for business. The amount obtained from Konark Enterprise has been utilised for payment to IIFL which is through regular banking channels. Hence, there cannot be any unexplained source regarding the same. The appellants books of account have been duly audited by a Chartered Accountant and there is no adverse remark in the report as regards the acceptance of the amounts from Konark Enterprise. Ld. AO had issued the notices dated 11/07/2017, 26/11/2018, 09/12/2018 and 14/12/2018. However, the appellant could not comply with notices as the appellant is residing abroad since 2017. Moreover, the email address on which the notices were served was



not of the appellant but of her Chartered Accountant. The appellant was completely unaware of the proceedings and hence there was non-compliance. Ld. AO concluded the assessment treating Rs. 40,70,000/- as concealed income and added the same to the existing loss of Rs. 5,05,944/-. Thus, the Ld. A O assessed the income at Rs. 35.64.060/- against loss of Rs. 5.05,944/. Being aggrieved by the impugned order, this appeal is filed.

6. The assessee filed an appeal in the office before the CIT(A). The Ld. CIT(A) issued several notices for hearing via e-mail (electronic mode). In response to the notices issued by the Ld. CIT(A), the appellant did not furnished documents/details/evidences. That Ld. CIT(A) has passed and ex-parte order dated 26.06.2023 with following observation:

“5.6 Before parting, it is trite that an appellate authority is essentially called upon to balance the two sides of an argument presented before him as held in Nirmal Singh and Others of the Hon'ble Punjab and Haryana High Court [Cr No. 3791 of 2013 (O&M) dated 01.05.2014] and in the absence of any reasonable, cogent and valid arguments/contentions advanced by the appellant in the instant appeal to counter the AO's decision as contained in the assessment order, as mentioned earlier, the additions/disallowances made by the AO is sustained in terms of the observations herein-above.”

7. That the assessee challenged the legality and validity of the appeal and filed an appeal against the impugned order dated 28.06.2023 before the Tribunal.

8. During the course of hearing, the Ld. AR of the assessee submitted that the assessee residing outside of India for several years (passport copy is placed on record.) therefore the assessee was unaware about the assessment proceedings. The notices issued through e-mail, email address belongs to CA/tax



consultant's, whose did not inform to the assessee about assessment proceedings. Therefore the assessee could not comply with the notices and did not furnished details/documents/evidences. However, the Ld. AR of the assessee prayed that one more opportunity to be given to the assessee to represent the case before lower authority.

9. On the contrary, the Ld. Sr. DR relied on the order of the Ld.CIT(A). However, Ld. Sr. DR has not objected to the prayer of the assessee.

10. 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. Since, the appellant did not submitted the relevant documents before the Ld. CIT(A). It is further noted that Ld. CIT(A) has not disposed of the appeal on merit and declared only on the basis of non appearance of the assessee. We further observed that the assessment was framed u/s. 144 of the I. T. Act by the Ld. AO. We note that the assessee has not made the compliance with the notices for hearing issued by the Ld. AO and the Ld. CIT(A). We note that the assessee has not gave due care and attention to the case and negligent in pursuing the case and the assessee has also a non-cooperative attitude in pursuing the case for A.Y. 2016- 17. We direct the assessee to deposit cost of Rs. 10,000/- to the Prime Minister Relief fund (Government of India), the receipt is to be submitted with the Registrar of this Tribunal. Keeping in view, in the interest of justice, that due opportunity should be given to the assessee to produced/submit the relevant documents before the Lower Authority. Therefore, we set aside the order of the Ld. CIT(A) and



remand the matter back to the file of the Ld. AO for fresh adjudication on merits, after giving due opportunity to the assessee to explain the case.

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

Order is pronounced in the open court on 06/06/2025.

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

Rajkot

दिनांक/ Date: 06/06/2025

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

(True Copy)

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot