



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. 957/RJT/2024

(निर्धारणवर्ष / Assessment Year: (2012-13))

(Hybrid Hearing)

Bhikhalal Dayalal Paun 2- Patel Park, Opp. Bhartiya School, Nr. Satellite Chowk, Pedak Road, Rajkot – 360003	Vs.	The ACIT , Circle– 2(1), Rajkot - 360003
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AIAPP6506A		
(Appellant)		(Respondent)

Appellant by : Shri D. M. Rindani, Ld. AR

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

Date of Hearing : 30/06/2025

Date of Pronouncement : 30/06/2025

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2012-13, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), National Faceless Appeal Centre (NFAC)-Delhi, Commissioner of Income-tax (Appeal), dated 28.06.2024, which in turn arises out of an order passed by the Assessing Officer, u/s 143(3) r.w.s. 147 of the Act, on 16.12.2019.

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

1 The learned Commissioner (Appeals) erred in confirming the action of Assistant Commissioner of income-tax, Circle-2(1), Rajkot in issuing the notice u/s 148 of the Act and thereby framing assessment u/s 143(3) r.w.s. 147 of the Act.



2. *The learned Commissioner (Appeals), erred in confirming the action of the Assistant Commissioner of Income-tax, Circle-2(1), Rajkot in making addition of Rs. 10,750/- by way of interest receipts not shown in the return of income for the year.*

3. *The learned Commissioner (Appeals), erred in confirming the action of the Assistant Commissioner of Income-tax, Circle-2(1), Rajkot in making addition of Rs. 16,13,000/- by way of unexplained cash credits u/s 68 of the Act.*

4. *The learned Commissioner (Appeals), erred in confirming the action of the Assistant Commissioner of Income-tax, Circle-2(1), Rajkot in disallowing the short-term capital loss of Rs. 20,64,509/-.*

5. *The appellant craves leave to add, amend, alter and withdraw any ground of appeal anytime up to the hearing of this appeal*

3. At the outset, that the appeal filed late by 125 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The crux of the application for delay is as under;

“The captioned appeal has been filed belatedly by 125 days. The reasons for the said delay may be enumerated as under:

That the impugned order u/s 250 of the Act dated 28-06-2024 was not received by the Appellant on the e-mail id given by him on E-filing portal i.e. dishantgasagency@gmail.com due to which the Appellant was not aware about the passing of the impugned order u/s 250 of the Act.

That thereafter the tax consultant of the appellant, while filing the return of income for A.Y. 2024-25, logged into E-filing portal sometime in October 2024 and found out about the passing of order u/s 250 dated 28-06-2024 by the Commissioner (Appeals), NFAC.

That thereafter, the Appellant was advised by his tax consultant to approach a tribunal tax practitioner and decide further course of action.”

4. During the course of hearing, the Ld. AR submitted that the assessee has not had any knowledge about online proceeding. That the Ld. AR prayed for one more opportunity may kindly be given to the assessee to explain the case.

5. On the contrary, the Ld. Sr. DR for the revenue has not objected to the prayer of the Ld. AR.



6. We have heard both the parties. We note that delay of filing before this Tribunal was due to unawareness about online proceedings in the case. The appellant came to know about the order of Ld. CIT(A) when the assessee logged into E-mail portal in October - 2024. In the interest of justice, we take a judicious view that we condoned the delay in filing appeal by 125 days.

7. Brief facts of the case that the Assessing Officer (hereinafter referred to as the 'AO') received information that the appellant has made share transaction in the script of M/s. Vandana Knitwear Ltd. and claimed short term capital loss during the year which was subsequently set off against the short term capital gain. The case was reopened u/s. 147 of the Act after due approval of the competent authority and notice u/s. 148 of the Act was issued on 29.03.2019. as the appellant failed to the return in respond to the notice u/s. 148 of the Act. the AO issued a letter to the appellant on 16.09.2019 to file return of income, the appellant filed return of income on 18.10.2019 declaring total income at Rs. 5,43,780/-. The AO completed the assessment u/s. 143(3) r.w.s. 147 making addition of Rs. 36,88,259/- in respect of following.

1. Rs 10,750/- unexplained interest receipt.
2. Rs 16,13,000/- unexplained cash credit.
3. Rs 20,64,509/- rejected short term capital loss.

8. That the assessee filed an appeal against the order of the Ld. AO, vide dated 16.12.2019. In the office of the Ld. CIT(A), Rajkot. The appeal was dismissed with following observation:

“Ground No 18 is directed against there being no legal service of the notice of hearing issued and therefore the assessment needs annulment. I find that the appellant has responded to the notice u/s 148 of the Act by filing return of income and also responded to notice u/s 142(1) of the Act issued during the assessment proceedings, the appellant has nor submitted any evidence that it raised issued of



non service of notice of hearing before the AO. Once, the appellant has cooperated with the assessment proceedings, it cannot now claim that there was no legal service of the notice of hearing issued. This appears to be a well thought plan of the appellant to raise endless grounds just for the sake that one of them might be upheld in appeal. It shows no seriousness of the appellant to submit evidences against the addition made but to fight it only on frivolous technical issues. It may be noted that numerous opportunities were given during appeal proceedings but the appellant only asked for short adjournments which it never complied with. Therefore, I am of the considered view that there is no merit in the appeal on this ground and thus the appeal on this ground is treated as dismissed.

23. Ground No 19 is general in nature and needs no adjudication.

24. Conclusion: As the result, the appeal is dismissed”

9. That the assessee filed an appeal against the impugned order dated 28.06.2024 before the Tribunal.

10. During the course of hearing, the Ld. AR of the assessee stated that the assessee was unaware about the online proceedings before the Ld. CIT(A), therefore, the assessee could not comply with the notice. The Ld. AR of the assessee prayed for one more opportunity should be given to the assessee.

11. On the other hand, the Ld. Sr. DR has relied upon the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR.

12. We have heard both the parties and perused the documents available on record. We note that various notices have been issued on email id of the assessee, therefore, the assessee was not aware about the proceedings, therefore, there was no compliance to the notice by the assessee. The Ld. CIT(A) disposed off the appeal by an ex-parte order without adjudication on merit. We further observed that the assessment was framed u/s. 143(3) r.w.s. 147 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. We note that the assessee has not give due care and attention to the case and the assessee has also a non-cooperative attitude in pursuing the matter for AY



2012-13. We direct the assessee to deposit of cost of Rs. 1000 to the Prime Minister Relief Fund (Government of India) within 10 days from today and the receipt to be submitted with the Registrar of this Tribunal. Keeping in view, in the interest of justice, that an opportunity to 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. CIT(A) for fresh adjudication on merits.

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

Order pronounced in the open court on 30 -06-2025.

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

Rajkot

दिनांक/ Date: 30 /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