



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. 126/RJT/2025

(निर्धारणवर्ष / Assessment Year: (208-19)

(Hybrid Hearing)

Chimanlal Bhutalal Sagar C/o CA Himansu Gandhi, 10 th Floor, D wing, Trade World building, Kamala Mills Compaund, Lower Parle – 400013	Vs.	Deputy Commissioner of Income Tax (International Taxation)-1, Room N.312, ITO, Amruta Building, Nr. Girnar Cinema, M. G. Road, Gujarat – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: FDMPS3665D		
(Appellant)		(Respondent)

Appellant by : Shri Himansu Gandhi, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : **01/05/2025**
Date of Pronouncement : **30/06/2025**

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2018-19, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), Commissioner of Income-tax (Appeal), dated 19.07.2024, which in turn arises out of an order passed by the Assessing Officer, u/s 147 r.w.s. 144 and 144B of the Act, on 28.02.2023.

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



- 1. On the facts and circumstances of the case and law, the Ld CTT(A) erred in passing ex-parte order and without adjudicating grounds of appeal on merit*
- 2. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in not condoning the delay in filing appeal before him, even though the appellant is suffered from reasonable and sufficient cause.*
- 3. On the facts and circumstances of the case and law, the Ld CIT(A) failed to consider that provisions of Section 144C was not complied by the Ld AO and thus the Order passed by the Ld AO was itself bad in law and liable to be quashed.*
- 4. On the facts and circumstances of the case and law, the Ld CIT(A) erred in confirming the validity of proceedings initiated by non-jurisdictional assessing officer*
- 5. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming addition of Rs.1,18,33,310/- under section 69 of Income Tax Act, 1961.*
- 6. On the facts and circumstances of the case and law, the Ld. CIT(A) failed to consider that provisions of section 69 of Income Tax Act, 1961 are not applicable when the source of investment is explained.*
- 7. On the facts and circumstances of the case and law, the Ld. CIT(A) failed to consider that provisions of section 69 of Income Tax Act, 1961 are not applicable when no books of account maintained by the appellant.*
- 8. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming charging of interest under section 234A and 234B of Income Tax Act, 1961.*
- 9. On the facts and circumstances of the case and law, the Ld. CIT(A) erred in confirming invocation of Penalty provision under section 271AAC(1) of Income Tax Act, 1961.*
- 10. Appellant craves leave to add further grounds or to amend or hearing. alter the existing grounds of appeal on or before the date of hearing.*
- 11. Whether there is any delay in filing of appeal (if yes please attach application seeking condonation of delay)*

3. At the outset, that the appeal filed late by 77 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;



“b) That during AV 2018-19 I along with my wife have purchased an immovable property at Mumbai and of the income earned in UAE for last 2 decades and investment was also made through Joint NIRE Account of my wife and myself I am not having any income in India. Hence, ne return of income was filed

c) That my case was reopened based on such information of purchase of immovable property and non-filing of Income Tax Return

d) Therefore, I have appointed local tax consultant Mr. Rushikesh Sanganwar for compliances to notices of Income Tax.

e) I have visited India on 23.01.2023 and provided all details with respect to purchase of property such as purchase agreement, bank statements and passport copy of the appelland and his wife. Accordingly, the tax consultant had uploaded all details on the income tax portal on 27.01.2023.

However, the Ld. AO not satisfied with the details issued the Show Cause notice on Income Tax Portal, without putting any email-id in notice. So. I was not knowing about the further notices. I went back to UAE on 20.02.2023.

j) Therefore, all the notices of the Ld CIT(A) were served on the email id of the tax consultant which was available on the portal and due to which the matter got over looked and resulted in Ex-parte order u/s 250 of the Income Tax Act, 1961.

k) That I was in UAE and visited India on 07.01.2025 and thereafter I tried to find the outcome of the appeal and around 2nd Week of February 2025 I came to know about the ex-parte order passed by the Ld CIT(A) without adjudicating the grounds on merits”

4. During the course of hearing, the Ld. AR submitted that the assessee is email Id of earlier tax consultant remained unchanged on the Income Tax Portal. Therefore, the Ld. AR prayer for one more opportunity may kindly to be given to the assessee and adjudicate on merit. On the contrary, the Ld. Sr. DR for the revenue has not objected to the prayer of the Ld. AR.

5. We have heard both the parties. We note that delay of filing before this Tribunal was because of email address belongs to old tax consultant remain unchanged on the income tax portal, therefore, an affidavit is also placed on record. The reason explained by the Ld. AR for “non appearance” is sufficient reason for condonation of delay. We condoned the appeal of 77 days and heard an appeal of the assessee on merit.



6. Brief facts of the case that the assessee has not filed income tax return for A.Y. 2018-19. As per the information available in the ITBA System (Income Tax Business Application Software) which has been identified and flagged under the head Non-filing of return (NMS) under Risk Management Strategy formulated by the Board, it was observed that the assessee has Purchased Immovable Property of Rs.1,18,33,100/-. Since the assessee has not filed the ITR the income chargeable to tax to the tune of Rs.1,18,33,100/- has escaped assessment, considering the material available on record and in view of the above facts and circumstances of the case, after providing opportunities to the assessee, with prior approval of the PCIT- Rajkot-1, notice u/s. 148 of the Income Tax Act, 1961 was issued to the assessee on 26.03.2022. Subsequently statutory notices were issued to the assessee as Penalty proceedings u/s. 272A(1)(d) for non-compliance of statutory notices are initiated separately.

Sl. No.	Description	Amount (in INR)
1.	Income as per Return of Income filed u/s. 139(1)	Not filed
2.	Income as computed u/s. 143(1)(a)	Not Applicable
3.	Income as per Return of Income filed in response to notice u/s. 148	Not filed

7. That the assessee filed an appeal against the order of the Ld. AO, vide order dated 28.02.2023. In the office of the Ld. CIT(A), Rajkot. The Ld. CIT(A) has dismissed the appeal with following observation:

“However, no details/clarification were submitted by the appellant. As discussed above, the appellant has failed to file any details/submission as to how the reasons stated for delay in filing of present appeal can be considered as sufficient cause for not presenting/filing the same within statutory be considered as sufficient cause of the same, I am of the considered opinion that the reasons advanced by the appellant for delay in filing of present appeal cannot be held to be sufficient cause which prevented the appellant to file the present appeal within the statutory time period and hence, the same is liable to be dismissed as un-



admitted/non-maintainable, without going into the merits of the various grounds raised in appeal. Therefore, the present appeal filed is dismissed, as unadmitted/non-maintainable, without going into the merits of the various grounds raised in appeal.”

8. That the assessee filed an appeal against the impugned order dated 19.07.2024 before the Tribunal.

9. During the course of hearing, the Ld. AR of the assessee stated that the assessee not changed email address. The email address belongs to old tax consultant, who did not inform to the assessee about proceedings. The Ld. AR of the assessee prayed for one more opportunity should be given to the assessee.

10. 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.

11. We have heard both the parties and perused the documents available on record. We note that various notices have been issued by the Ld. CIT(A), but there was no compliance to the notice. The Ld. CIT(A) is disposed off the appeal by an ex-parte order. We note that the main reason for non compliance was that the email address belongs to old tax consultant, therefore the assessee was unaware about the online proceedings. Thereafter, we are of the view that an opportunity should be given to the assessee to present his case before the Lower Authority. We note that the Ld. AO has also passed an order u/s. 147 r.w.s. 144 of the Act. We set aside the order of Ld. CIT(A) and remit the matter back to the file of Ld. AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard.



12. 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

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot