



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. 150/RJT/2025

(निर्धारणवर्ष / Assessment Year: (2017-18)

(Hybrid Hearing)

Divya Darshan Enterprise Block No. 7/8, Meera Nagar, Opp. Shashikunj, Gandhipar, B/h. Sardarbaug, Junagadh – 362001	Vs.	Deputy Commissioner of Income Circle – 1(1), Rajkot Aayakar Bhavan, Race Course Ring Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAHFD5111A		
(Appellant)		(Respondent)

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

आदेश / ORDER

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, 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), Commissioner of Income-tax (Appeal), dated 20.12.2024, which in turn arises out of an order passed by the Assessing Officer, u/s 144 r.w.s. 263 of the Act, on 14.03.2023.

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 without proper appropriation of fact on record and submission filed.

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 confirming addition made of Rs.11,00,000/- u/s.69A of the Act on the alleged ground that the appellant failed to explain source of cash deposits alongwith necessary evidences. The addition confirmed is totally unjustified and uncalled for and deserves to be deleted and may kindly be deleted. Your honour appellant craves leave to add, amend alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.

3. At the outset, that the appeal filed late by 141 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;

"4. Subsequently, Hon'ble Pr. Commission of Income-tax, Rajkot-1, Rajkot has vide order u/s 263 of the Act dated 25.02. 2022 alleged that order passed u/s. 143(3) of the Act dated 22.11.2019 is erroneous and prejudicial to the interest of revenue as the AO has not properly inquired/verified details of cash deposited by the appellant during demonetization period and thereby set aside the order passed u/s. 143(3) of the Act dated 22.11.2019 and directed make assessment afresh. Consequently, the AO issued notices u/s. 143(2)/142(1) of the Act

5. However, as the appellant's registered business premise was inoperative since last two years and as it shifted the administrative / accounting office at other premise in the city, all the physical notices issued by the Department at old address remained unserved. Further, notices were issued online, which appears to be served on e-mail address avadhresidency@gmail.com as against actual e-mail address of the appellant avadhresidency@live.com", Thus, notices were sent on wrong email address and hence, none of the notices issued by the Department was served to the appellant. This lead the finalization of the assessment proceeding ex-parte u/s. 144 of the Act.

6. As regards the source of cash deposited of Rs. 11,00,000/- in bank account held with HDFC Bank Ltd. during demonetization period, it is submitted the same was deposited out of opening cash available with the appellant, which is evident from the audited financial statements of preceding assessment years.

7. On the above back ground, the AO, finalized the assessment vide order u/s.143(3) r.w.s. 263 of the Act dated 14.03.2023 by invoking the provision of



section 144 of the Act and assessing the total income at Rs.81,46,440/- by making addition of Rs.11,00,000/- u/s.69A r.w.s. 115BBE of the Act as unexplained money on the alleged ground that the appellant failed to explain source of cash deposit during demonetization period alongwith necessary documentary evidences.

8 As stated above, assessing officer has issued statutory notices on an e-mail address registered with ITD portal which is avadhresidency@gmail.com. However, firm's tax consultant had made typographical error in registering correct e-mail address as the correct e-mail address of the firm is avadhresidency@live.com. Because of this, the appellant could not receive any statutory notices issued by the income tax department from time to time and hence, such notices issued could not be responded. In this regards, duly sworn affidavit of partner of appellant firm is attached herewith.

4. During the course of hearing, the Ld. AR stated that the notices served upon wrong email address (i.e., avadhresideny@gmail.com). Therefore, the assessee was unaware about proceeding, therefore, the assessee could not comply with the notices. That 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, the notices issued by the department on email address avadhresideny@gmail.com instead of avadhresidency@live.com, therefore the assessee could not comply with the notices, 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 141 days and heard an appeal of the assessee on merit.

6. Brief facts of the case that (i) In this case an order u/s 263 of the I.T. Act. had been passed by the PCIT. Rajkot-1, observing that the assessee had made the cash deposits of Rs. 6,00,000/- on 12.11.2016 & Rs. 5,00,000/- on 30.12.2016 in the Bank Account bearing No. 0170232004371 maintained with HDFC Bank during the demonetization period, however, same was



remained unexplained at the time of assessment proceeding completed u/s 143(3) on 22.11.2019. Accordingly, directed to make the fresh assessment keeping in view the observation made.

Sl. No.	Description	Amount (in INR)
1.	Income assessed as per order passed u/s 143(3) dated 22.11.2019.	Rs. 70,46,440/-
2.	Variation in respect of issue of undisclosed income u/s 69A of the Act.	Rs. 11,00,000/-
3.	Total income/loss determined as per the above proposal	Rs. 81,46,440/-

Assessed u/s 144/263 r.w.s. 144B of the income-tax Act, at an income of Rs. 81,46,440/-. Issue necessary forms. Charge interest as per Act. Allow credit of prepaid taxes. Penalty proceeding u/s 271AAC of the Income-tax Act, 1961 is initiated separately for misreporting the income & penalty proceedings u/s 272A(1)(d) for non compliance to the notice issued u/s 142(1) of the Act.

7. That the assessee filed an appeal against the order of the Ld. AO, vide order dated 14.03.2023. In the office of the Ld. CIT(A), Rajkot. The Ld. CIT(A) has dismissed the appeal with following observation:

“5.6 Respectfully following the judgements in the above cases, I am of the view that there is clear failure on the part of the appellant and lack of diligence and inaction on its part which would have been avoided by the appellant if it had exercised due care and attention. Therefore, I am not inclined to condone the huge delay of 141 days without any valid and cogent reasons and thereby, the request of condonation is hereby rejected.

6. To sum up, the appeal of the appellant is hereby dismissed”



8. That the assessee filed an appeal against the impugned order dated 26.12.2024 before the Tribunal.

9. During the course of hearing, the Ld. AR of the assessee stated that the notices were issued by the department on wrong email address, therefore the assessee could not comply with the assessee. The Ld. AR of the assessee prayed for one more opportunity may kindly to 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 notices were issued by the department on wrong email address, therefore the assessee was unaware about the 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. 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

(True Copy)

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot