

आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
AND  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.441 & 442/RJT/2024

निर्धारणवर्ष /Assessment Year: 2016-17

Saileshkumar Maganlal Patel Parshavnath Chambers, Navyug Cinema Road, Surendranagar, 263310, Gujarat PAN : ACDPP2564P	बनाम Vs.	The ITO, Ward-2 Surendranagar
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri D.M. Rindani, Id.AR

राजस्व की ओर से/Revenue by : Shri Abhimanyu Singh Yadav, Sr-DR

सुनवाई की तारीख/Date of Hearing : 30/06/2025

घोषणा की तारीख/Date of Pronouncement : 30 /06/2025

**ORDER**

**Per Dr. Arjun Lal Saini, Accountant Member:**

Captioned two appeal filed by the assessee, pertaining to Assessment Year (AY) 2017-18, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre, Delhi[in short 'Ld.CIT(A)/NFAC'], under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 21.09.2023 and 26.04.2024, which in turn arise, out of separate orders passed by the Assessing Officer u/s 143(3) and penalty order under section 271(1) (C ) of the Act.



2. The appeal filed by the assessee in ITA No. 442/RJT/2024 [u/s. 271(1)(c) Penalty Appeal) for the Assessment Year 2016-17, is barred by limitation by 214 days, before this Tribunal. The assessee moved a petition requesting the Bench to condone the delay. We have gone through the petition for condonation of delay, and the sufficient cause explained by the assessee, in the petition for condonation of delay. The learned Counsel adverted our attention to the reasons for condonation of delay, and urged for a benign view and sought condonation of delay of 214 days in filing the appeal before this Tribunal. Learned DR for the revenue, opposed the prayer of the assessee for condonation of delay. A perusal of the reasons and sufficient cause explained by the Id. Counsel for the assessee, 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 in filing the appeal before this Tribunal.

3. In respect of assessee`s appeal, in ITA No.441/RJT/2024- quantum appeal, Ld. Counsel for the assessee submitted that during the appellate proceedings before Ld. CIT(A), the assessee has explained the sufficient cause for the delay in filing the appeal before ld. CIT(A), however Ld. CIT(A) did not condone the delay of 141 days and dismissed the appeal of the assessee.

4. In case of ITA No. 442/Rjt/2024, the Ld. Counsel submitted that this appeal pertains to Penalty Proceedings, u/s. 271(1)(c) of the Act. In case of this appeal, there was a delay in filing the appeal before ld. CIT(A) for 214 days. The said appeal was also dismissed, on account of condonation of delay, by the Ld. CIT(A). The Ld. Counsel stated that despite of explanation given by the assessee for the sufficient cause for condonation of delay, the Ld. CIT(A) did not condone the delay.



5. The Ld. Counsel stated that in case of both these appeals, during the appellate proceedings, the assessee submitted the medical papers and the relevant documents and explained the delay stating that there was a medical emergency and due to severe illness of the assessee, the assessee could not file these appeals, on time, before learned CIT(A) and hence delay of 141 days and 214 days, respectively have occurred.

6. Therefore, learned Counsel for the assessee submitted before the Bench that the delay in filing the appeals before ld. CIT(A) of 141 days and 214 days, respectively, may be condoned, and since the learned CIT(A) did not adjudicate the issue involved in these appeals on merit, therefore, these two appeals may be restored back to the file of the ld. CIT(A) for fresh adjudication.

7. On the other hand, Ld. Sr.D.R. for the Revenue submitted that in case of quantum appeal in ITA No. 441/Rjt/2024, there is a delay of 141 days in filing the appeal before the Ld. CIT(A). In case of penalty appeal in ITA No. 442/Rjt/2024, there was a delay in filing the appeal before Ld. CIT(A) for 214 days. In case of both these appeals, the assessee has failed to explain the sufficient case, therefore Ld. CIT(A) has rightly dismissed these appeals, on account of condonation of delay. However Ld. Sr. D.R. for the revenue further submitted that if the Bench, wants to restore these two appeals to the file of the lower authorities, then matter should be restored back to the file of Assessing Officer, for de novo adjudication and cost should also be imposed on the assessee, on account of non-compliance attitude of the assessee.

8. We have heard both the parties and perused the material available on record. We note that in case of both these appeals, that is, ITA No. 441/Rjt/2024, which is a quantum appeal, wherein there is a delay of 141 days and in case of ITA



No. 442/Rjt/2024, which is Penalty Appeal u/s. 271(1)(c) of the Act, and there is delay of 214 days in filing the appeal before Id. CIT(A). The assessee has submitted petition of condonation of delay before the Ld. CIT(A) in case of both these appeals and assessee has explained the sufficient cause by producing the medical certificate stating that due to medical emergency, the assessee could not file these appeals before Ld. CIT(A). In case of ITA No.441/RJT/2024, the submissions of the assessee, before the Ld. CIT(A), about condonation of delay, were as follows:

*“Sub: Petition for Condonation of delay io filling the appeal,*

*May it please to your honour.*

*Appeal No. CIT(A), Ahmedabad-7/10379/2019-20*

*E-filing Appeal No. 517987771200619 A. Y. 2016-2017. Dated 20/06/2019*

*Sir. The assessment U/s 143(3) for the assessment year 2017-18 in my case has been completed by the Income tax Officer Ward-3 by order dated 30/12/2018.*

*That the time for filing of the appeal before the CIT. (Appeals) was to expire on 29/01/2019.*

*That, I was sick and suffering from sciatica and was under treatment of Dr. K.L. Mehta (copy of medical certificate enclosed) and therefore appeal could not be filed well within the stipulated time That the memo of Appeal has been e-filed ort 20/06/2019 vide Ack. No. 517987771200619*

*Accordingly, we request your honour to kindly delay the condoned in the interest of natural Justice.”*

9. In case of ITA No.442/RJT/2024, the submissions of the assessee, before the Ld. CIT(A), about condonation of delay, were as follows:

*"Due to health reasons and belief of abeyance of penalty proceedings on filling quantum appeal etc".*

10. We note that assessee was suffering from severe ailment and it was sufficient cause shown by the assessee for condonation of delay of 141 days and 214 days respectively before the Ld. CIT(A). We note that Co-ordinate Bench of ITAT Ahmedabad in the case of Viren Dhirajlal Shah 173 taxmann.com 261



(Ahmedabad Trib.), held that where assessee was having a stressful life and assessee was not in sound mind to take correct decisions on legal proceedings, delay of 1607 days in filing appeal by the assessee was to be condoned by Ld. CIT(A). We note that during the course of CIT(A) proceedings, the assessee filed petition for condonation of delay, along with medical certificate for delay of 141 days and 214 days respectively, before the Ld. CIT(A). The said petition for condonation of delay and medical certificate is produced by ld. Counsel before the Bench. Therefore based on these facts and circumstances, we condone the delay of 141 days in filing the appeal in case of quantum proceedings, in ITA No. 441/Rjt/2024 and 214 days delay in filing the appeal in ITA No. 442/Rjt/2024 ( penalty appeal u/s 271(1) (c ) of the Act) and admit these two appeals for hearing.

11. We note that in quantum appeal, in ITA No. 441/Rjt/2024, there is no decision of the Ld. CIT(A), on merits. The fate of assessee`s appeal in ITA No. 442/Rjt/2024 ( penalty appeal u/s 271(1) (c ) of the Act), depends upon the outcome of the appeal in quantum proceedings. Considering the above facts, we note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the ld. CIT(A). We note that the ld. CIT(A) did not discuss the assessee`s case on merits based on the material available before him hence it is a violation of principle of natural justice. We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(A) for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the



order of the Id. CIT(A) and remit both these appeals back to the file of the Id. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, both appeals of the assessee are treated as allowed.

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

**Order is pronounced in the open court on 30/06/2025**

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

**Sd/-  
(DR. ARJUN LAL SAINI)  
ACCOUNTANT MEMBER**

राजकोट /Rajkot

दिनांक/ Date: 30/06/2025

आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)/(NFAC), Delhi.
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेशसे,

Assistant Registrar/Sr. PS/PS

ITAT, Rajkot