

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1322/SRT/2024

Assessment Year: (2013-14)

(Hybrid Hearing)

Geeta Prints Pvt. Ltd. 150, GIDC, Pandesara, Surat-394 221	बनाम/ Vs.	Income Tax Officer, Ward -1(1)(1), Surat, Aaykar Bhavan, Majura Gate, Surat-395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAACG 88182R		
(Appellant)		(Respondent)

निर्धारिती की ओर से /Appellant by	Shri Rajesh C. Shah, AR
राजस्व की ओर से /Respondent by	Shri Ajay Uke, Sr. DR
सुनवाई की तारीख/Date of Hearing	03/06/2025
उद्घोषणा की तारीख/Date of Pronouncement	10/07/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 18.11.2024 by the National Faceless Appeal Centre, Delhi/ Commissioner of Income-tax (Appeals) [in short 'CIT(A)'] for the Assessment Year (AY) 2013-14 which in turn arises from the assessment order passed by Assessing Officer (in short, 'AO') u/s 144 of the Act on 18.03.2016.

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

*"1. The learned CIT(A) has erred in not admitting the appeal as it was 2 days late and no reason was given by the appellant. The appellant has filed the reason that the appeal has to be filed online and the portal was working. The appellant has filed the rejection by the portal and finally with request filed an appeal in physical form. The appellant has paid fees of Rs.1,000 on 13.04.2016. So the Ld. CIT(A) ignored initial facts are bad in law.*

2. *The learned CIT(A) has wrongly assumed the jurisdiction of the case and also the Ld. CIT(A) has erred in confirming the same.*
3. *The learned Asst. Commissioner of Income-tax was not justifying making an addition of Rs.2,41,570/- on account of corresponding income in respect of undisclosed TDS and also the Ld. CIT(A) has erred in confirming the same.*
4. *The learned Asst. Commissioner of Income-tax was not justifying making an addition of Rs.4,37,290/- on account of late payment of employees' contribution to PF & ESIC and also the Ld. CIT(A) has erred in confirming the same.*
5. *The learned Asst. Commissioner of Income-tax was not justifying making an addition of Rs.52,83,198/- on account of the disallowance of various expenses and also the Ld. CIT(A) has erred in confirming the same.*
6. *The learned Asst. Commissioner of Income-tax was not justifying making an addition of Rs.7,28,587/- on account of depreciation and also the Ld. CIT(A) has erred in confirming the same.*
7. *The learned Asst. Commissioner of Income-tax was not justifying making an addition of Rs.35,80,411/- on account of trade payable and also the Ld. CIT(A) has erred in confirming the same.*
8. *The appellant reserves the right to add, alter amend or withdraw any grounds of appeal."*

3. Facts of the case in brief are that assessee filed return of income on 30.09.2013 for AY 2013-14 declaring total income at Rs.Nil. The case was selected for scrutiny under CASS and the AO issued various notices u/s 143(2), 143(1) which are given in a tabular form at para-2 of the assessment order. The assessee furnished part reply but was mostly non-compliant. Hence, the AO passed the order u/s 144 of the Act by making total addition of Rs.78,40,597/-. Aggrieved by the order of AO, assessee filed appeal before CIT(A).

4. The CIT(A) has observed that there was a delay of 2 days in filing the appeal manually before the CIT(A). The appellant has not mentioned in Form-35 that there was delay in filing appeal and it has also not given reasons for delay in filing appeal. He observed that the appellant has not filed a valid appeal and, hence, he did not admit the appeal.

5. Aggrieved, the appellant has filed present appeal before the Tribunal. The Ld. AR submitted that the appellant tried to file the appeal online before the due date. However, the ITBA portal did not allow the appellant to file appeal online. Subsequently, the appeal was filed in physical form. In view of the above, there was a small delay of 2 days. The delay was neither deliberate nor intentional and it was due to reasons beyond the control of appellant. He requested that the order of CIT(A) may be set aside and the appellant should be given one more opportunity to plead its case on merit before AO because AO passed an ex parte order u/s 144 of the Act.

6. On the other hand, Ld. Sr-DR for the Revenue would have no objection if the matter is restored back to the file of lower authority.

7. We have heard both the parties and perused the materials on record. We find that AO passed ex parte order u/s 144 of the Act on 18.03.2016. The appeal was dismissed by CIT(A) due to delay of 2 days in filing appeal before him. As per sub-section (2) of Section 249 of the Act, an appeal shall be presented within 30 days following the date of service of the notice of demand

relating to the assessment or penalty. The last date for filing of appeal was 23.03.2016. Since the appeal was instituted on 25.03.2016, there was delay of 2 days in filing appeal before CIT(A). Due to inability to the appellant filed appeal manually. Hence, there was some delay of 2 days in filing appeal. It was neither deliberate nor intentional. We, therefore, set aside the order of CIT(A). Since the AO has passed an ex parte order u/s 144 of the Act, we remit the matter back to the file of AO with a direction to pass fresh assessment order in accordance with law after granting adequate opportunity of hearing to assessee. The assessee is directed to be vigilant and to furnish all details and explanation as needed by AO and not seek adjournment without valid reason. For statistical purposes, the appeal of assessee is treated as allowed in above terms.

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

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 10/07/2025.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**लेखा सदस्य/ACCOUNTANT MEMBER**

सूरत /Surat

दिनांक/ Date: 10/07/2025

Dkp Outsourcing Sr.P.S\*

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

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

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सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत