

आयकर अपीलिय 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.37 & 38/RJT/2025
निर्धारणवर्ष /Assessment Year: 2017-18 & 2018-19

Mota Dadva Mahila Utpadak Sahakari At Mota Dadva, Gondal, Rajkot Gujarat-360311 PAN : AAKFM7170M	बनाम Vs.	The ITO, Ward-1(2)(1) Rajkot
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Samir Bhuptani, Id.AR
राजस्व की ओर से/Revenue by : Ms. Monica Pandey, Sr-DR

सुनवाई की तारीख/Date of Hearing : 10/07/2025
घोषणा की तारीख/Date of Pronouncement : 10/07/2025

ORDER

Per Dr. Arjun Lal Saini, Accountant Member:

Captioned two appeals filed by the same assessee, pertaining to Assessment Years (AYs) 2017-18 & 2018-19, are directed against 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'), both dated 29.01.2024, which in turn arise out of separate two assessment orders passed by the Assessing Officer u/s 144 of the Act.

2. Both these appeals filed by the assessee for Assessment Years 2017-18 and 2018-19, are barred by limitation by 295 days. The assessee has moved a petition requesting the Bench to condone the delay. The learned Counsel for the



assessee, explained the reasons for delay, stating that notice were not served on the assessee and the tax consultant of the assessee, did not inform to the assessee, about passing the appellate order, therefore, because of the mistake of the tax consultant, the delay has occurred in filing these both appeals, which may be condoned in the interest of justice.

3. The Ld. DR for the revenue, opposed the prayer for condonation of delay.

4. We have heard both the parties on this preliminary issue. We note that contents in the petition for condonation of delay, in both these appeals are same, and these appeals relate to the same assessee. 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 295 days in filing both these appeals. 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 both these appeals.

5. On merit, At the outset, Learned Counsel for the assessee, begins by pointing out that assessee has not attended the proceedings before the assessing officer and before learned CIT(A), as the assessee is uneducated and reside in remote area, where internet facility is not available, therefore, notices of hearing were not served on the assessee. On appeal, by the assessee, the Ld. CIT(A), has dismissed the appeal of the assessee, on the ground that assessee has not deposited the advance -tax, as per the provisions of Section 249(4)(b) of the Act.



6. Learned Counsel for the assessee, in case of ITA No. 38/Rjt/2025 for Assessment Year 2018-19 and in case of ITA No. 37/Rjt/2025 for A.Y. 2017-18, argued that first of all, the assessee did not suppose to file the Return of Income, as his income was below the maximum amount which is not chargeable to tax. Therefore, the assessee under consideration did not supposed to pay the advance tax. However, the Ld. CIT(A) has dismissed both these appeals of the assessee, stating that assessee has failed to pay the advance tax. The Ld. Counsel, therefore, submitted that these appeals of the assessee, may be remitted back to the file of Assessing Officer for fresh adjudication, so that assessee can submit the relevant documents and evidences to prove his claim.

7. The Id. DR for the Revenue debarred from objecting the stand of the Id. Counsel.

8. We have heard both the parties and perused the materials available on record. We note that both the appeals were dismissed by the Ld. CIT(A), on the ground that assessee did not deposit the advance tax. The findings of the Ld. CIT(A) (which is a similar in all these two cases), are reproduced below:

“As per the provisions of the section 249(4)(b) of the Act, the appeal shall not be admitted, unless the appellant has paid an amount equal to the amount of advance tax which was payable by him if no return of income has been filed.

In the present case, the appellant did not file return of income. As per the above assessment order, the tax liability of the appellant was Rs.2,05,23,698/- which includes the advance tax payable by the appellant as well as the interest on account of delayed payment of advance tax. On or before filing the present appeal, the appellant has failed to make the requisite payment of the amount equal to the amount of advance tax which was required to be paid by him. Further, the appellant neither provided any clarification/explanation in response to the deficiency letter issued by this office nor did he offer any reason, leave alone any good and sufficient reasons as mandated in the proviso to sec.249(4), seeking exemption from the operation of the sec. 249(4)(b) even though sufficient opportunities were provided to him.

On careful consideration of the above facts and circumstances, as the appellant has failed to fulfill the necessary conditions for admission of appeal before CIT(A) as per sec. 249(4)(b), the present appeal is liable to be held as not eligible for admission.



Accordingly, it is held that the appeal is not fit for admission and hence, the appeal is not admitted. In the result, the appeal is treated as dismissed for statistical purposes”.

9. We note that proviso of section 249(4)(b) of the Act, clearly states that on an application, made by the assessee, the Commissioner (Appeals) may, for any good and sufficient reason, to be recorded in writing, exempt the assessee from the operation of the provisions of clause (b) of sub-section 4 of section 249 of the Act. However, we note that order passed by both the lower authorities are *ex-parte* orders, without adjudicating the various issues involved in these appeals, on merit, therefore, we are of the view that one more opportunity should be given to the assessee to explain his case and to prove his claim, on merit, by submitting sufficient evidences before the assessing officer. On account of non-compliance altitude of the assessee, we impose a cost of Rs.5000/- (for both appeals), to be deposited by the assessee, in the Prime Minister national relief fund.

10. Considering the facts and circumstances of the case and the fact that the assessment order was confirmed by Ld.CIT(A) in *ex parte* order, we are of the considered view that the assessee deserves one more opportunity to contest its case on merit. In the interest of justice, we set aside the order of Ld.CIT(A) and remit the matter back to the file of assessing officer with a direction to pass fresh orders, in both appeals, 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 assessing officer by not seeking adjournment without valid reason. With this direction, the grounds of appeal raised by the assessee, in these both appeals, are treated, as allowed for statistical purposes.



11 In the result, both appeals filed by the assessee, are allowed for statistical purposes.

Order is pronounced in the open court on 10/07/2025

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

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

राजकोट /Rajkot

दिनांक/ Date: 10/07/2025

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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,

// True Copy //

Assistant Registrar/Sr. PS/PS

ITAT, Rajkot