



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, AM.

&

DINESH MOHAN SINHA, JM

आयकरअपीलसं./ITA No.58/RJT/2025

निर्धारणवर्ष / Assessment Year: (2008-09)

(Hybrid Hearing)

Damjibhai Lekharjibhai Thavrani C/o. Sarda & Sarda (CA), Sakar 1st Floor, Dr. Radha-Krishnan Road, Opp. Rajkumar College, Rajkot - 360001	Vs.	Income-tax Officer, ITO Ward – 1 Income Tax Office, Bhootnath Chamber, Junagadh - 362001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AEYPT7701B		
(Appellant)		(Respondent)

Appellant by : Shri Vimal Desai, Ld. AR
Respondent by : Shri Sanjay Punglia, Ld. CIT. DR
Date of Hearing : 07/ 05 /2025
Date of Pronouncement : 14/ 07/2025

आदेश / ORDER

PER DINESH MOHAN SINHA JM;

Captioned appeal filed by assessee pertaining to Assessment Year 2008-09, is directed against order passed by Commissioner of Income Tax (Appeal), vide order dated 13/12/2024, which in turn arises out of an order passed by the Assessing Officer dated 28.03.2016 u/s 144 r.w.s. 147 of the Income Tax Act, 1961.



2. GROUNDS OF APPEALS: -

- 1. The assessment order u/s. 144 of the Act is bad in law.*
- 2. The learned Assessing Officer has erred in law as well as on facts for making the addition of total cash deposits of Rs.24,74,10,821/- on account of alleged undisclosed income of the appellant.*
- 3. The Ld. CIT(A) has erred in law as well as on facts in dismissing the appeal as non-maintainable without condoning the delay in filing the appeal.*

3. Facts of the Case

1. The appellant is an individual the appellant did not file return of income for the assessment year 2008-09.
2. The case of the appellant was reopened us. 147 of the Act on the reason that the appellant entered into transactions of Rs. 16,53,580/- from M/s. Laxmi Enterprise and Rs. 83,72,528 from M/s. Satnam Enterprise during the year and did not file his return of Income.
3. It is submitted that the appellant shifted from Rajkot to Junagadh since 22.01.2010 and the address of Junagadh was also mentioned in the return of income for A.Y. 2013-14 filed on 27.03.2014. Thus, the address was available on the records of the Department.
4. However, during the course of re-assessment proceeding, the Ld. A.O. issued various notices at the old address of Rajkot without verifying the departmental records and since the appellant shifted from the Rajkot, no notice served. The Ld. A.O. completed the reassessment ex-parte and made the huge addition of Rs.24,74,10,821/- on account of alleged unexplained cash deposits.
5. The re-assessment order was not served on the appellant. However the Junagadh address was already available on the records.
6. Further, it is submitted that the said bank accounts were operated by the father of the appellant who used operate the impugned bank accounts for the activities of Shroff which fact was also verifiable



from the bank statements itself. The Ld. A.O. without considering the debits/withdrawals corresponding to credits/deposits in the same bank accounts made huge addition of entire credits/deposits.

That the assessment was completed on 28/03/2016 and income assessed at Rs. 24,74,10,821/-

Being aggrieved by the above reassessment order, the appellant filed on appeal before Ld. CIT(A).

4. That the Ld. CIT dismissed the appeal on account of delay in filing the appeal and assessee could not established the sufficient cause for filling the appeal. Hence, on order dated 13/12/2024. The appeal dismissed with following observation:

“For these reasons, the delay of 1542 days in filing of appeal in this case is not condoned as no "sufficient and reasonable cause" has been shown u/s.249(3) of the Income Tax Act, 1961 for the appellant's failure to file the appeal within the prescribed period of limitation u/s.249(2) of the Income Tax Act, 1961 r.w.s. 5 of Limitation Act and hence the appeal sought to be instituted belatedly is hereby rejected.

In the result, the appeal is rejected.”

5. That the assessee field an appeal against the impugned order dated 13/12/2024 before this Tribunal. On account of delay in filing the appeal before the Ld. CIT(A). The assessee filed an application stating the reason for delay.

“The re-assessment order u/s. 144 r.w.s. 147 of the Act for A.Y. 2008-09 has been passed on 28.03.2016. As per the records of the Id. A.O., the impugned reassessment order was served through affixture on 09.06.2016 at my old address of Rajkot and the same did not reach to me. Considering the same, the appeal was required to be filed on or before 09.07.2016.



However, the same could not be filed in time on account the reasons mentioned hereinafter.

It is submitted that I was residing at Rajkot till the year 2009 in past. Thereafter, I shifted from Rajkot to Junagadh on 22.01.2010. I have also mentioned my new address of Junagadh in the return of income for A.Y. 2013-14 filed on 27.03.2014. Thus, it may please be appreciated that my new address of Junagadh was available on the records of the Department before initiation of reassessment proceedings by issue of notice u/s. 148 of the Act dated 30.03.2015.

However, the Id. A.O. issued all the notices in connection with the re-assessment proceeding for the year under consideration at my old address without taking any cognizance of new address of Junagadh. Thus, I did not receive any notice from the Id. A.O. which resulted into ex-parte completion of the re-assessment wherein the Id. A.O. made huge addition of Rs.24,74,10,821/- as my income.

Recently, during the course of recovery proceedings of demands, it came to my knowledge that huge demands of around Rs.32.60 crores have been raised in A.Y. 2008-09 and shown as outstanding on the e-filing portal. Accordingly, I requested for certified copy of the corresponding orders before the Id. A.O. The successor A.O. was kind enough to provide me certified copy of the re-assessment order u/s. 144 r.w.s. 147 dated 28.03.2016 and penalty order u/s. 271(1)(c) dated 22.08.2016 which were served through affixture at my old address of Rajkot on 09.06.2016.”



(i) The Ld. AR of the assessee submitted during the course of argument that the assessee has shifted from Rajkot to Junagadh and the new address were submitted to the department before initiation of reassessment proceedings. No notice served on the new address and assessee prayed for an opportunity to present this case. The Ld. AR prayed that delay in filing the appeal may kindly be condoned and the assessee may kindly be given an opportunity to explain the case before the authority.

(ii) On the contrary the Ld. DR. has relied on the order of the lower authority. However, the Ld. DR has objected the prayer of the assessee.

6. We have heard both the parties and perused the material available on record which is available before us and also gone through the submissions made by the assessee. We noted that the delay in filing the appeal before the Ld. CIT(A) was because of the reason that assessee has shifted from Rajkot to Junagadh in 2010. No notice served on the assessee. The assessee was having no knowledge of hearing of the case going on before the Ld. CIT(A). We noted that the new address of Junagadh was available on record of the Department. Before initiation of reassessment proceedings by issuing of notice u/s. 148 of the Income Tax Act dated 03-03-2015. Therefore, we are of the view that the assessee should not be penalized because of delay in filing the appeal. Therefore, we are of the view that one more opportunity should be given to the assessee present this case before the Ld. CIT(A). Therefore, we set-aside the order of the Ld. CIT(A) and remit the matter back to the file of the Ld. CIT(A) for fresh adjudication on merit after giving due opportunity to the assessee of being heard. We direct the assessee to submit relevant detail/document/evidence as required by the Ld. CIT(A) for



disposal of the case. The Ld. AR has assured to this bench for proper compliance of notice issued by Department in this case.

7. Resultantly, this appeal is allowed for statistical purpose.

Order pronounced in the open court on 14 / 07 /2025.

Sd/-

**(Dr. A.L. SAINI)
ACCOUNT MEMBER**

Sd/-

**(DINESH MOHAN SINHA)
JUDICAL MEMBER**

Rajkot

दिनांक/ Date: 14 / 07/2025

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

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot