

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.95/RJT/2024

(निर्धारण वर्ष/Assessment Year: (2015-16)

Bhavesh Ishwarlal Panchasara 1, Mehulnagar Main Road, Near Khodiyar Temple, Rajkot-360 002	बनाम /Vs.	Assistant Commissioner of Income-tax, Circle-3(1), Rajkot
स्थायी लेखा सं./जीआइआरसं./PAN/GIR No.: AODPP 1375 E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Appellant by : Shri Nimish Vayawala, Ld.A.R. &
Shri Bhavik Nagoari, Ld. AR
राजस्व की ओर से/Respondent by : Shri Abhimanyu Singh Yadav, Ld.Sr. D.R.

सुनवाई की तारीख/ **Date of Hearing** : 24/07/2025

घोषणा की तारीख/**Date of Pronouncement** : 24/07/2025

आदेश / ORDER

PER DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER:

Captioned appeal filed by the assessee, pertaining to Assessment Order (AY) 2015-16, is directed against the order under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) passed by the National Faceless Appeal Centre (NFAC), Delhi/Learned Commissioner of Income Tax(Appeals) (in short “Ld.CIT(A)”, dated 03.11.2023, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Act dated 28.12.2017.

2. The assessee has raised the following grounds of appeal:-

“1. The Ld. CIT(A) has wrongly passed the order without giving proper opportunity of being heard.

2. *The learned CIT(A) has erred on facts as well as in law by making addition in income of Rs.2,30,24,000/- as unexplained cash credit u/s 68 of I.T. Act.*

3. *That the Ld. CIT(A) has wrongly confirmed wrongly initiation of penalty proceeding u/s 271(1)(c) of the I.T. Act, 1961*

4. *That, the Ld. CIT(A) ha wrongly confirmed levy of interest u/s 234A, 234B, 234C and 234D of I.T. Act, 1961.*

5. *That the findings of the Ld. AO and Ld. CIT(A) are not justified and are bad-in-law.*

The appellant craves to add, amend, alter or delete any of the above grounds of appeal.”

3. The appeal filed by the assessee is barred by limitation by 48 days in terms of provisions of section 253(3) and 253(5) of the Act. The assessee has filed an affidavit giving reasons for delay in filing the appeal before the Tribunal. The Ld. Counsel has explained the reasons for delay stating that assessee received the order of Ld. CIT(A) on 03.11.2023 and stipulated period to file appeal before Tribunal was on or before 01.01.2024. The assessee provided e-mail id in Form-35 rpc.efilin@gmail.com. On the above said e-mail id, no notices had been served in digital process, as such assessee was not aware of passing appellate order. Hence, there was delay in filing appeal before Tribunal. The delay was neither wilful nor deliberate, but due to the circumstances beyond its control. The Ld. AR requested that in the interest of justice, the delay may be condoned and appeal may be decided on merit.

4. On the other hand, the Learned Senior DR for the Revenue submitted that Bench may decide the matter of condonation of delay as it thinks fit.

5. We have heard both the parties on this preliminary issue. In the affidavit, it is submitted that as per the new system of appeal proceedings, notices are served digitally through e-mail id, however, the assessee did

not receive notices of hearing from Ld. CIT(A); and as a result, the assessee could not participate in appellate proceedings; and moreover, the assessee was not aware about passing the appellate order. We note that reasons given in the petition for condonation of delay were convincing and these reasons would constitute reasonable and sufficient cause for the delay in filing this appeal. Considering all these facts, we find that delay was not deliberate and intentional, but it was due to non-receipt of notices/order in assessee's e-mail id. The Ld. Sr-DR has also not raised objection to condone the delay. We, therefore, condone the delay of 48 days and admit the appeal for hearing.

6. At the outset Ld. Counsel for the assessee submitted that during assessment proceedings, assessee had not submitted bank statement, copy of invoices, copy of bills, details of real beneficiaries etc. as these details were not readily available at that time, when the assessment proceedings were going on. The Ld. Counsel for the assessee submitted that now assessee is ready with the documents and wants to furnish the details and documents before lower authorities. The Ld. Counsel for the assessee prayed before the Bench that one more opportunity should be given to assessee to plead his case before Assessing Officer.

7. The ld. Sr-DR of the Revenue has raised no objection if the matter is remitted back to the file of lower authorities.

8. We have heard both the parties and gone through materials available on record. We note that ld. CIT(A) has not decided the issue in respect of the ground raised by the assessee in Memo of Appeal as per the mandate of provisions of section 250(6) of the Act. The Ld. AR of the assessee requested to set aside the order of CIT(A) and requested the Bench that matter may be remitted back to the file of the Assessing Officer for fresh adjudication and undertook the responsibility that all the

details would be filed before Assessing Officer if another opportunity is granted to the appellant. The Ld. Sr-DR has also no objection if the matter is restored to the file of Assessing Officer. In view of the above facts, we deem it proper to set aside the order of CIT(A) and restore the matter back to the file of Assessing Officer for fresh adjudication after granting adequate and fair opportunity of being heard to the assessee. It is needless to say that assessee will be at liberty to adduce any evidences, as deemed relevant before the Assessing Officer at the time of *de novo* assessment proceedings, in consequence to this order and the Assessing Officer shall allow the assessee adequate opportunity of being heard and to make relevant submissions, and then pass a speaking order, which is fair and judicious. Accordingly, appeal of assessee is allowed for statistical purposes.

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

Order is pronounced on 24/07/2025 in the Open Court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/Judicial Member

Sd/-
(DR. ARJUN LAL SAINI)
लेखा सदस्य/ Accountant Member

राजकोट /Rajkot

दिनांक/ Date: 24/07/2025

DKP Outsourcing Sr.P.S

आदेश की प्रतिलिपि अत्रेपित/ 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, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, राजकोट