



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.428 & 433/RJT/2024

(निर्धारण वर्ष/Assessment Years: 2015-16 & 2018-19)

Jayhind Buildcon Pvt. Ltd. 1 <sup>st</sup> Floor, G.K. Complex, Khodiyar Colony, Main Road, Jamnagar-361 006	बनाम/ <b>Vs.</b>	Principal Commissioner of Income-tax, Jamnagar, Officer of the Principal Commissioner of Income- tax, PCIT, Jamnagr-361 008
स्थायी लेखा सं./जीआइआरसं./PAN/GIR No.: <b>AABCJ 9032 B</b>		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Appellant by : Ms. Amoli Gusani, Ld.AR

प्रत्यर्थी ओर से/Respondent by : Shri Sanjay Punglia, CIT-DR

सुनवाई की तारीख/ **Date of Hearing** : 29/07/2025

घोषणा की तारीख/**Date of Pronouncement** : 29/07/2025

आदेश / ORDER

**Per, Dr. A. L. Saini, AM**

By way of these two appeals, assessee has challenged the correctness of the order passed by the Learned Principal Commissioner of Income-tax, Jamnagar [in short 'Ld.PCIT'], under section 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), pertaining to Assessment Years (AYs) 2015-16 and 2018-19, both dated 17.11.2023.

2. These two appeals filed by the assessee, are barred by limitation by 141 days. The assessee has moved a petition requesting the Bench to condone the delay. The contents of the petition of condonation of delay filed before the Bench, in respect of these two appeals, are similar and identical. Therefore, we



have taken into account a sample copy of petition for condonation of delay, which is filed by the assessee, in ITA No.428/RJT/2024, for assessment year 2015-2016.

3. The Ld. Counsel has explained the reasons for delay stating that assessee had not received the hard copy of the order of Ld.PCIT, on time and the appeal before Tribunal was to be filed within 60 days from the date of receipt of the order of ld.PCIT, that is, on 17.01.2024. As soon as, the assessee obtained copy of order, then after, assessee took appropriate steps to file appeal before the Tribunal and this process has resulted into delay in filing appeal before Tribunal. Since, the order of Ld.PCIT was not delivered to assessee, therefore, such delay has occurred, which may kindly be condoned.

4. On the other hand, the Ld. CIT-DR for the Revenue opposed the prayer of the assessee for condonation of the delay and stated that assessee has failed to explain the sufficient cause, therefore, delay in both the appeals should not be condoned.

5. We have heard both the parties on this preliminary issue. We note that the order of the ld.PCIT was not delivered in physical form to the assessee, and even notices issued by the ld. PCIT, during the revision proceeding, were not served on the assessee. Therefore, this delay of 141 days in filing the appeal (each appeal) is neither intentional nor deliberate. We have gone through the petition for condonation of delay, and the sufficient cause explained by the assessee. We note that the reasons given in the affidavit for condonation of delay, was convincing, and the reason would constitute reasonable and sufficient cause for the delay in filing these appeals. A perusal of the reasons and sufficient cause explained by the ld. 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. Considering the above facts and



circumstances of the cases, as narrated above, we are of the considered opinion that in the interest of justice, the delay deserves to be condoned. Accordingly, we condone the effective delay of 141 days and admit both the appeals of the assessee for adjudication on merit.

6. At the outset, Ld. Counsel for the assessee submitted before the Bench that since in these two appeals of assessee, (vide ITA No.428/RJT/2024 for A.Y 2015-16 and appeal in ITA No.433/Rjt/2024 for A.Y. 2018-19), during proceedings u/s 263 before Ld.PCIT, assessee could not appear and could not submit required submission and details before him. Therefore, Ld.PCIT have passed *ex- parte* orders in both appeals. The Ld. Counsel for the assessee stated that had the assessee filed required details and documents, before Ld.PCIT, he would have dropped the proceedings u/s 263 of the Act. The Ld. Counsel also submitted that required documents and evidences could not be produced before Ld.PCIT, as the assessee was not aware about the proceedings going on u/s 263 of the Act, before Ld.PCIT and the assessee has not received any information or notices from the Ld.PCIT. Therefore, assessee could not submit any details and documents before Ld. PCIT. Therefore, Ld. Counsel contended that one more opportunity should be given to the assessee to plead these two cases before Ld.PCIT.

7. On the other hand, Ld. CIT-DR of the Revenue did not have any objection, if both these appeals, are remitted back to the file of Ld.PCIT for fresh adjudication.

8. We have heard both the parties and perused the material available on records. We note that the during proceedings u/s 263 of the Act, before Ld.PCIT, assessee could not appear and could not file the required documents and evidences, as the relevant notices issued by Ld.PCIT were not served on the assessee. Since, the notices of Ld.PCIT were not served on the assessee and therefore, assessee was not aware about such proceedings u/s 263 of the Act,



hence, assessee could not file the required documents and evidences before Ld.PCIT, and as a result, the ld. PCIT has passed the *ex-party* orders. We find merit in the contention of the Ld.Counsel for the assessee, to the effect that 'had the assessee appeared before Ld.PCIT and filed required documents and evidence then it was be possible that Ld.PCIT would have dropped the proceedings passed u/s 263 of the Act. Moreover, we also note that Ld.PCIT did not reach on right conclusions because assessee has not submitted the required documents and evidence before Ld.PCIT and Ld.PCIT did not examine the documents and evidences of the assessee. In these circumstances, we are of the view that in the interest of justice and fair play, we should remit these two *lis* back to the file of the ld. PCIT. Therefore, we accept the prayer of Ld. Counsel for the assessee and set aside the orders of ld. PCIT and remand the various issues raised by the assessee in the grounds of appeals before Ld. PCIT, for fresh consideration by the ld.PCIT, with a liberty to the assessee, to prove its cases by producing sufficient evidence/material to the satisfaction of the Ld.PCIT. For statistical purposes both the appeals of the assessee are allowed.

9. In the result, both appeals of assessee are allowed for statistical purposes, in above terms.

Order is pronounced in the open court on 29/07/2025

**(DINESH MOHAN SINHA)**

**(DR.ARJUN LAL SAINI)**

न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य/ACCOUNTANT MEMBER

राजकोट/Rajkot

दिनांक/ Date: 29/07/2025

DKP Outsourcing Sr.P.S



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

- अपीलार्थी/ The Assessee
- 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