



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. 400/RJT/2025

Assessment Year: (2017-18)

Mahesh Sumatbhai Basiya Ravat Para, Junagadh Road, Bilkha, Dit. Junagadh-362 110	Vs.	Income Tax Officer, Ward-2, Junagadh, Aayakar Bhavan, Kalwa Chowk, Junagadh-362 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ARJPB 1223 E		
(Appellant)		(Respondent)

Appellant by	Shri Darshit Ranpara, Ld.A.R.
Respondent by	Shri Abhimanyu Singh Yadav, Ld.Sr- DR
Date of Hearing	06/08/2025
Date of Pronouncement	06/08/2025

आदेश / ORDER

PER: DINESH MOHAN SINHA, JM:

This is an appeal filed by the assessee arises against the order of the National Faceless Appeal Centre (NFAC), Delhi/ Commissioner of Income Tax (Appeal) [in short "Ld. CIT(A)"] dated 10/04/2024 for the Assessment Year (AY) 2017-18, which is arise out of on order passed by the assessing officer on 19.12.2019.

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

"1. The grounds of appeal mentioned hereunder are without prejudice to one another.

2. The Id. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as the "CIT(A)"] erred on facts as also in law in dismissing the appeal ex-parte.



3. The Id. CIT(A) erred on facts as also in law in confirming addition of Rs.22,80,000/-being cash deposited of Rs.22,80,000/- in bank account on the alleged ground that the appellant failed to explain source of cash deposit during demonetization period alongwith evidences. necessary supporting The addition confirmed is unjustified and uncalled for, which deserves to be deleted, may kindly be deleted.

4. The Id. CIT(A) erred on facts as also in law in confirming addition of Rs.39,75,000/-being unsecured loan received of Rs.39,75,000/- different parties on the alleged ground that the appellant failed to prove genuineness of transaction and creditworthiness of lenders along with necessary supporting. confirmed is unjustified and uncalled for, which deserves to be deleted, may kindly be deleted. The addition

Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.”

3. At the outset, that the appeal filed late by 346 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The relevant part of the application for delay is as under;

“2.0 That the assessment in case of assessee was finalized vide order u/s.144 of the Act vide order dated 19.12.2019 assessing total income Rs.62,57,560/- by making additions of Rs.62,55,000/-.

3.0 In an appeal filed, the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi has vide order dated 10.04.2024 dismissed the appeal ex-parte without allowing proper opportunity of being heard.

4.0 As the assessee is out of town, he instructed me to handle his Income tax matter. However, as the email id registered on income-tax is kushaltimbadia12@gmail.com which is used by his previous tax consultant, who has neither intimated to assessee nor me about notices issued u/s.250 of the Act several times and passing of appellate order. Subsequently, when we asked the previous tax consultant about the status of the appeal filed, he informed that ex parte order has been passed. As Maheshbhai was out of station and I was looking after his tax matter, I consulted Chartered Accountant (CA) with UID and PW for guidance in the matter. The CA advised that the appeal against the ex parte order passed by the NFAC is supposed to be filed within 60 days of receipt of the appellate order, however it could not be filed due to above circumstances. We have, now changed the UID and PW and will be vigilant in legal compliances.”

3.1. Rival submissions of both the parties have been heard and record perused. The Ld. Authorized Representative (Ld.AR) of the assessee fairly submits that there is delay of 346 days in filing appeal before



Tribunal. The order passed by Ld. CIT(A) was not received either on the e-mail through his notices or not physically served upon assessee. The Ld. AR of the assessee prayed that one more opportunity is should be given to the assessee to explain the case before the lower authority.

3.2. On the contrary, the Ld. Sr. DR for the revenue has not objected to the prayer of the Ld. AR. However, the Ld. DR proposed a cost should be imposed on the assessee.

3.3. We have heard both the parties. We note that delay of filing the appeal before this Tribunal because the assessee's tax consultant while filing appeal before Ld.CIT(A), mentioned e-mail address kushaltimbadia12@gmail.com for the purpose of notices and service of order in appeal and email was used previous tax consultant. A notice of hearing under section 250 was sent through e-mail on previous tax consultant, who did not inform to the assessee. However, upon query, tax consultant inform that an ex-parte order passed by the Ld. CIT(A). That the assessee was unaware about the proceedings. The delay is neither intentional nor deliberate, rather due to reasons beyond control of assessee. After considering the reason explained by the Ld. AR. We note that the assessee has not give due care and attention to the case and the assessee has also a non-cooperative attitude in pursuing the matter for AY 2017-18. We direct the assessee to deposit of cost of Rs. 2000 to the Prime Minister Relief Fund (Government of India) within 10 days from today and the receipt to be submitted with the Registrar of this Tribunal. In the interest of justice, we condoned the delay and appeal is heard on merit.



4. Brief facts of the case that the appellant, an Individual, is assessed to tax by the Income-tax Officer, Ward-2(3), Porbandar (hereinafter referred to as the "AO"). He is engaged in the business of transport and also earning brokerage income on real estate transactions. Apart from that he has also derived income from other source i.e. interest income etc. The AO on basis of information that appellant deposited cash in demonetization period at (1) Rs. 20,63,000/- in account No.50200020138913 and (2) Rs 2,17,000/- in account no.02311530007151 held with HDFC Bank Ltd. has issued notice u/s 142(1) of the Act dated 28.12.2017 electronically requiring the appellant to file return of income for this assessment year . However, as the appellant is not well versed with the e-assessment proceeding, he did not access his mails regularly therefore notices issued on 28.12.2017 & 19.05.2019 remained unattended. However, on being accessing his mail he came to know that the above stated notices were issued by the department. The appellant has therefore in response to notice issued u/s.142(1) filed return of income declaring therein total income at Rs. 3,20,450/- on 26.06.2019. Further, during the course of assessment proceedings the AO had issued notices u/s. 142(1) of the Act. In response to which, appellant has furnished necessary details including cash deposited during demonetization and unsecured loan received. As regard the source of cash deposited into the bank account, the appellant has explained that the same was out of cash in hand, being cash received on account of transportation income and brokerage income. In support of his contention, the appellant has furnished supporting evidences like cash book, brokerage income ledger/bill, transportation income ledger/bills, RC Books etc. Regarding fresh unsecured loan obtained, the appellant has fled copies of ledger accounts, ID Proof and confirmations of lenders. However, the AO in total disregards to the submission and evidences



furnished, finalized the assessment order dated 19.12.2019 assessing the total income at Rs.62,57,560/-.

5. That the assessee filed an appeal against the order of the Ld. AO, vide order dated 19.12.2019, in the office of the Ld. CIT(A), Rajkot. The Ld. CIT(A) has dismissed the appeal with following remarks

“7.6 Further, even during the course of present appellate proceedings, the assessee has miserably failed to rebut the findings of the AO regarding maintenance of records. Under the circumstances, in the absence of any details or documentary evidence forthcoming from the appellant, I am of the considered opinion that the AO rightly by way of detailed speaking order has made the impugned addition of Rs. 22,80,000/- u/s. 69A of the Act and Rs. 39,75,000/- u/s. 68 of the act warranting no interference of the appellate authority.

7.7 Ground No-4 & 5, these grounds are raised with respect to charging of interest u/s. 234A, 234B and 234C of the Act. In this regard, it is stated that the demand has rightly been raised by the AO. The charging of interest u/s. 234A, 234B and 234C is consequential in nature and mandatorily chargeable on the event of respective defaults committed as per the provisions of the Act. Thus, the grounds 4 and 5 of the appeal are dismissed.

8. Accordingly, appeal filed by the assessee stands Dismissed.”

6. That the assessee filed an appeal against the impugned order dated 10.04.2024 before the Tribunal

7. During the course of hearing, the Ld. AR of the assessee submitted that the assessee has no knowledge about the hearing, the Ld. AR prayed for one more opportunity may kindly be given to the assessee to explain the case.

8. On the other hand, the Ld. Sr. DR has relied upon the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR.

9. We have considered the rival submissions of both the parties and have gone through order of lower authorities carefully. We find that AO as well as Ld. CIT(A) both passed *ex parte* orders. We find that assessee



engaged in the business of transport and also earning brokerage income etc., that Ld. CIT(A) has issued 6 notices for hearing through e-filing portal/ ITBA portal but the assessee has not replied to any notice because the assessee was not aware about the notices. We note that order of the Ld. AO is also ex-parte. Hence, in order to prevent the, miscarriage of justice, we would like to give a further an opportunity of being heard to the appellant. Accordingly, in the interest of justice of fair play, we are inclined to restored the issue to the file of the Ld. AO for fresh adjudication as per the provision of law hence, the ground appeal of the assessee is allowed for the statistical purpose.

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

Order is pronounced on 06/08/2025 in the open court.

**Sd/-
(Dr. A. L. SAINI)**

लेखा सदस्य/ACCOUNTANT MEMBER
राजकोट /Rajkot

दिनांक/ Date: 06/08/2025

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 आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण, राजकोट