



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No.946 & 943/RJT/2024
Assessment Year: (2017-18)

Choudhary Narsiram, Shop No.11, Plot No.16, Sector-2, Gandhidham-370201 (Gujarat)	Vs.	Income Tax Officer, Ward-2, Gandhidham, Income-tax Office, Plot No.32, Sector No.3, Near IFFCO Colony, Gandhidham- 370 201
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: AIPPC2062B		
(अपीलार्थी/Appellant)		(प्रत्यर्थी /Respondent)

अपीलार्थीओरसे/ Appellant by : Shri Chetan Agarwal, AR
प्रत्यर्थीकीओरसे/Respondent by : Shri Abhimanyu Singh Yadav, Sr. DR
सुनवाईकीतारीख/Date of Hearing : 13/08/2025
घोषणाकीतारीख /Date of Pronouncement : 29/08/2025

आदेश / O R D E R

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

Captioned two appeals filed by the assessee, pertaining to same Assessment Year, (AY) 2017-18, are directed against the separate orders passed by the National Faceless Appeal Centre, Delhi/Learned Commissioner of Income Tax(Appeals),[in short “the ld. CIT(A)/NFAC”] all dated 27.09.2024, which in turn arise out of separate assessment order passed by Assessing Officer u/s 143(3) of the Income Tax Act, 1961 and Penalty order under section 271B, of the Act, (hereinafter referred to as “the Act”).



2. In ITA No.946/Rjt/2024, assessee has challenged the addition in quantum assessment, *whereas* in ITA Nos. 943/Rjt/2024, the assessee has challenged the validity of penalty levied u/s 271B of the Act, dated 25.01.2022. As certain facts in these appeals are common, and these appeals relate to same assessee, thus, both these appeals were clubbed and heard together. Appeal in quantum assessment in ITA No.946/Rjt/2024 is treated as “lead” case.

3. The assessee has raised the following grounds of appeal in ITA No.946/Rjt/2024:

“1. The Ld. CIT(A) erred in law as well as on facts in dismissing appeal is ex-parte.

2. The Ld. CIT(A) erred in law as well as on facts in upholding an addition of Rs.30,25,758/- being estimated business income @ 10% of total import value of Rs.3,02,57,585/-.”

4. At the outset itself, the Id. Counsel for the assessee submitted that both the appeals filed by the assessee before the Tribunal are barred by limitation 18 days and 22 days respectively. The ITA No.946/RJT/2024 for A.Y.2017-18, is barred by limitation of 18 days whereas assessee’s appeal in ITA No.943/RJT/2024, is barred by limitation of 22 days. The assessee moved separate petitions for condonation of delay, requesting the Bench to condone the delay. The Ld. Counsel for the assessee explained that the assessee was not aware about passing online appeal by Ld. CIT(A) and came to know on receipt of SMS from Department for payment of demand, and then the appellant has verified the portal and accordingly gain knowledge of passing of appeal order. Therefore the delay of 18 days has occurred. The same reasons are for the delay for 22 days. The Ld. Counsel for the assessee submitted that one more opportunity should be granted to the assessee to represent his case



before Assessing Officer, therefore after set aside the order of Ld. CIT(A), the matter may be remitted back to the file of the Assessing Officer for fresh assessment.

5. We have heard both the parties on this preliminary issue. We have gone through the reasons explained by assessee in the respective condonation petition of delay and having regard to the reasons given in the respective petitions for condonation of delay, we are of the considered view that assessee has explained sufficient cause and therefore delay needs to be condoned. Therefore, in the interest of justice, the delay of 18 days in ITA No.946/RJT/2024 and delay of 22 days in ITA No.943/RJT/2024, deserve to be condoned and, accordingly, we condone the delay in both appeals and admit both the appeals of the assessee to adjudicate, on merit.

6. On merit, Ld. Counsel for the assessee submitted that assessee was not aware about the online procedure, therefore he could not appear before the Ld.CIT(A) and Ld. CIT(A) has passed the *ex parte* order. However, during appellate proceedings, assessee sought adjournment for one month to file the details and documents but on account of mistake committed by the Advocate of the assessee, the assessee could not submit the required details and documents before Ld.CIT(A) and as a result, the *ex parte* order was passed by Ld.CIT(A). Therefore, Ld. Counsel for the assessee contended that since the assessee wants to submit some more additional evidences to prove his case/claim, therefore one more opportunity may be allowed and matter may be remitted back to the file of Assessing Officer for fresh adjudication.



7. Learned Sr-DR of the Revenue stated that he did not have any 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 Id. 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. Counsel 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, as the assessee wants to file additional evidences and Id. Counsel for the assessee, 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 did not raise any 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. 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, quantum appeal in ITA No.946/RJT/2024 of the assessee, is allowed for statistical purposes.



10. We note that we have restored the grounds of appeal raised in quantum assessment/ quantum appeal to the file of Assessing Officer, therefore, the penalty imposed u/s 271B will not survive, when the matter in quantum proceedings have been restored to the file of Assessing Officer, the penalty does not have leg to stand. However, the Assessing Officer is given liberty to initiate fresh penalty, in accordance with law. In the result, penalty appeal is also allowed for statistical purposes.

11. In the combined result, both the appeals of the assessee are allowed for statistical purposes.

A copy of the instant common order be placed in the respective case file(s).

Order is pronounced on 29/08/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिकसदस्य/**Judicial Member**
राजकोट/Rajkot

Sd/-
(DR. ARJUN LAL SAINI)
लेखासदस्य/**Accountant Member**

दिनांक/ Date: 29/08/2025

DKP Outsourcing Sr.P.S

True Copy

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

अपीलार्थी/ The Appellant

प्रत्यर्थी/ The Respondent

आयकरआयुक्त/ CIT

आयकरआयुक्त(अपील)/ The CIT(A)

विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, राजकोट/ DR, ITAT, RAJKOT

गार्ड फाईल/ Guard File

By order/आदेशसे,

सहायकपंजीकार
आयकरअपीलीयअधिकरण, राजकोट