



**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. 305/RJT/2025**

**(Assessment Year: 2013-14)**

**(Hybrid Hearing)**

Akhubhai Kathalbai Khuman, Nanaliliya Mota Lilya, Amreli-365601	<b>Vs.</b>	ITO, Ward-3(1)(4), Amreli
स्थायी लेखासं./जीआइआरसं./PAN/GIR No.: <b>BBCPK2506F</b>		
<b>(अपीलार्थी/Appellant)</b>		<b>(प्रत्यर्थी/Respondent)</b>

निर्धारितकीओरसे/Assessee by

: Shri Pragnesh Jagasheth, Ld. AR

राजस्वकीओरसे/Revenue by

: Shri Abhimanyu Singh Yadav, Sr. DR

सुनवाईकीतारीख/**Date of Hearing**

: **20/08/2025**

घोषणाकीतारीख/**Date of Pronouncement**

: **29/08/2025**

**आदेश/ORDER**

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

Captioned appeal filed by the assessee, pertaining to Assessment Order (AY) 2013-14, 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/Commissioner of Income Tax(Appeals) (in short “Ld. CIT(A)”, dated 30.03.2024, which in turn arises out of an assessment order passed by the Assessing Officer u/s 144 of the Act, dated 08.12.2017.



2. The appeal filed by the assessee for Assessment Year 2013-14, is barred by limitation by 351 days. The assessee has moved a petition requesting the Bench to condone the delay. Learned Counsel for the assessee, explained the reasons for delay, stating that assessee is a farmer by occupation, and not much educated. The assessee was unaware of the income tax proceedings, although the notices and orders were issued and served at assessee`s address. The assessee was engaged in farming activities, and had no knowledge of the income tax proceedings or how to respond to them. Furthermore, assessee did not receive proper advice or guidance at that time from his tax consultant, therefore, because of the mistake of the tax consultant, the assessee should not be penalized. When the assessee received a call from the Income Tax Department regarding the recovery of demand, then assessee inquired about the matter with a new tax consultant. Thus, there was a delay of 351 days in filing the appeal, which occurred due to circumstances entirely beyond assessee`s control. The delay was neither deliberate nor intentional, therefore, Id. Counsel prays the Bench that delay may be condoned in the interest of justice.

3. On the other hand, the Id. D.R. for the Revenue argued that assessee, although, is a senior citizen, but has not explained the sufficient cause, to condone such delay. In the absence of reasonable, satisfactory or even appropriate explanation for seeking condonation of delay, the same is not to be condoned lightly. The Id DR further stated that while exercising discretion for condoning the delay, the court has to exercise discretion judiciously.



4. We have heard both the parties on this preliminary issue. We note that assessee is a senior citizen and the notices were not served on the assessee on the address given in Form 35 therefore the assessee could not appear during the appellate proceedings and consequently the assessee has received the order of the Id. CIT(A) very late, as the appellate order of Id. CIT(A) neither served on the assessee physically nor by email id. Moreover, the accountant/advocate who was handling the matter did not inform the assessee timely therefore because of the mistake of the advocate of the assessee, the assessee should not be penalized. We have gone through the petition for condonation of delay, and the sufficient cause explained by the assessee, in the petition for condonation of delay. The learned Counsel adverted our attention to the reasons for condonation of delay and urged for a benign view and sought condonation of delay of 351 days in filing the appeal before Tribunal. A perusal of the reasons and sufficient cause explained by the Id. 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. Accordingly, the delay is condoned.

5. On merit, Ld. Counsel for the assessee submitted that during appellate proceedings, the assessee could not appear and could not submit the details and documents because of the circumstances beyond its control. The Ld. Counsel further submitted that now the assessee is ready with the documents and wants to furnish the details and documents before lower authorities. The Ld. Counsel, therefore, prayed before the Bench that one more opportunity should be given to the assessee to plead his case before assessing officer. The assessee could not represent its case before Ld. CIT(A) and the order being an *ex parte*, stood vitiated on account of violation of principles of



natural justice. An adequate opportunity of hearing was not given to the assessee; therefore, Ld. Counsel contended that one more opportunity should be given to the assessee to plead his case before assessing officer. The ld.Counsel undertakes to be vigilant and furnish explanation and details expeditiously.

6. On the other hand, Learned Senior Departmental Representative (Ld. Sr. DR) for the Revenue supported the order of lower authorities. The ld.DR stated that cost may be imposed on the assessee, as the assessee has been negligent in pursuing the appeal before CIT(A).

7. 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. 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 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.

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

**Order pronounced in the open court on 29-08-2025.**

**Sd/-**  
**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

Rajkot

Dated: 29/08/2025

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आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Rajkot
6. Guard file.

**Sd/-**  
**(A. L. SAINI)**  
**ACCOUNTANT MEMBER**

By order,

Assistant Registrar  
ITAT, Rajkot