



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 435/RJT/2025

निर्धारणवर्ष /Assessment Year: 2013-14

Dipakkumar Parsotamdas Asanani Prop. Jay Jalaram Enterprise, M. G. Road, Rajkot – 360370 PAN : AECPA2955G	Vs.	ITO, NFAC, Delhi Aayakar Bhavan, Race Course Ring Road, Rajkot - 360001
(अपीलार्थी/assessee)	:	(प्रत्यर्थी/Respondent)

निर्धारितीकीओरसे/Assessee by : Shri Brijesh Parekh,Ld.AR
राजस्वकीओरसे/Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाईकीतारीख/Date of Hearing : 03/09/2025
घोषणाकीतारीख/Date of Pronouncement : 12/09/2025

ORDER

Per, Dr. Arjun Lal Saini, AM:

The present appeal has been filed by the Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), Ahmedabad/ National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 17.12.2024 arising in the matter of assessment order passed u/s.147 r.w.s. 144 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2013-14.

2. The appeal filed by the assessee is barred by limitation of 117 days. The assessee has submitted petition for condonation of delay requesting the Bench to condone the delay. The contents of the petition for condonation of delay are reproduced below;



“In connection with the above appeal the applicant most humbly and respectfully begs to state and submit as under:

1] The case of the applicant was reopened. The applicant filed the return in response thereto. The applicant also replied to the show cause notice. However, the return filed by the applicant and the reply filed in response to the show cause notice have not been considered by the Ld.A.O., NFAC, Delhi.

2] The addition made in the assessment order is the capital gain on the sale of the plot at Jetpur. The assessment was reopened for this reason only and the applicant had in the return filed in response to notice u/s.148 offered the capital gain on the sale of plot to tax adopting its jantri value/value as per Stamp Duty Valuation as the sale price and therefore this issue is not in dispute as the applicant has accepted the same.

3] It is submitted that the e-mail ID on the portal of the Department was of Sri Jitendra Kapadia and he did not inform the applicant about the notices from the National Faceless Appeal Centre and subsequent thereto the appeal order from the CIT[A], NFAC, Delhi dismissing the appeal and as such the appeal could not be filed within the time before the Honourable ITAT. The date of CIT[A] order is 17/12/2024. However, the fact that the appeal has been dismissed by the Ld.CIT[A], NFAC, Delhi came to the knowledge of the applicant in the last week of May-2025 and on coming to know the applicant has filed the appeal before the Honourable Bench. The affidavit in this regard is enclosed.

Under the above circumstances it is prayed that the delay in filing the appal before the Honourable ITAT, Rajkot Bench, Rajkot may kindly be condoned for which act of kindness the applicant shall ever be grateful”

3. Learned Counsel for the assessee, argued that in the above petition for condonation of delay, the assessee has explain the reasons for delay and sufficient cause for delay, therefore, the delay should be condoned in the interest of justice.

4. On the other hand, the Ld. DR for the revenue submitted that assessee has failed to explain the sufficient cause, therefore, delay should not be condoned based on the filmsy reasons, and appeal of the assessee may be dismissed.

5. I have heard both the parties on this preliminary issue and noted that assessee has provided the email-id of his accountant/advocate. The notices of hearing were delivered on the email-id of his accountant/advocate. The accountant/advocate did not inform the assessee about notices of hearing. The



assessee came to know when demand notice was issued by the assessing officer. Thereafter, the assessee took immediate steps to file the appeal before the Tribunal. Therefore, I note that because of mistake of the advocate of the assessee, the assessee should not be penalised and hence in the interest of justice, I condoned the delay.

6. On merit, Ld. Counsel for the assessee stated that assessee submitted entire documents and details before the assessing officer. However, before the Ld. CIT(A) the assessee could not submitted required details and documents, during the appellate proceedings as the accountant/advocate of the assessee did not corporate, therefore the assessee could not submitted details and documentary evidences before the Ld. CIT(A) and hence the Ld. CIT(A) has passed ex-parte order. The Ld. Counsel submitted that now the assessee has ready to submit all the required documents and details before the Ld. CIT(A),therefore, Ld. Counsel prayed that one more opportunity may be given to the assessee to plead his case before the Ld.CIT(A), and matter may be restored back to the file of the Ld. CIT(A) for fresh adjudication.

7. The ld. DR for the Revenue did not raise any objection if the matter is restored back to the file of the Ld. CIT(A) for fresh adjudication.

8. I have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld CIT(A) and other materials brought on record. I note that in the assessee's case under consideration, the assessment was carried out u/s 147 r.w.s. 144 the Act and the impugned order passed by the ld. CIT(A), is an ex parte order and non-speaking order, therefore, I do not wish to make any comments on the merits of the grounds raised by the assessee.



9. Considering the above facts, I note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the ld. CIT(A). I note that the ld. CIT(A) did not discuss the assessee's case on merits based on the material available before him hence it is a violation of principle of natural justice. I note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, I restore the matter back to the file of Ld. CIT(A) for *de novo* adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, I deem it fit and proper to set aside the order of the ld. CIT(A) and remit the matter back to the file of the Ld. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

Order is pronounced in the open court on 12/09/2025

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

राजकोट/Rajkot

दिनांक/ Date : 12/09/2025

Copy of the order forwarded to :

- The assessee
- The Respondent
- CIT
- The CIT(A)
- DR, ITAT, RAJKOT
- Guard File

(True Copy)

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot