

आयकर अपीलीय अधिकरण,सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री बिजयानन्दा प्रुसेथ, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member

आयकर अपील सं./ITA No.1252/SRT/2024
निर्धारण वर्ष /Assessment Year : 2011-12

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| Eagle Fashions Private Limited, 201, 2 nd Floor Orleaans Building Near City Centre Sosyo Circle, Magdalla Bharthana B.O., Surat | बनाम/ v/s. | The Deputy Director of Income Tax, CPC, Bengaluru Current Jurisdiction: Deputy CIT Circle-1(1)(1), Surat |
| स्थायी लेखा सं./PAN: AAACE 5107 F | | |
| (अपीलार्थी/ Appellant) | | (प्रत्यर्थी/ Respondent) |
| Assessee by : | | Shri Rasesh Shah, CA |
| Revenue by : | | Shri Ajay Uke, Sr.DR |

सुनवाई की तारीख/Date of Hearing : 19/06/2025
घोषणा की तारीख /Date of Pronouncement: 12/09/2025

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the Office of the Commissioner of Income Tax, Appeal, ADDL/JCIT (A), Prayagraj [hereinafter referred to as 'Ld.CIT(A)'] dated 30/09/2024 for Assessment Year (AY) 2011-12. The assessee is aggrieved by the action of the Ld.CIT(A) in dismissing the appeal of the assessee holding the same as time-barred.

2. The brief facts of the case are that the assessee filed its return of income on 25.09.2011 showing total income of Rs.17,72,659/-. In the schedule 'DOA' of ITR Form, assessee had shown the opening written down value of land & building at Rs. 3,25,295/- as against same shown in preceding previous year at Rs. 33,59,795/-Further, in case of furniture, assessee had shown the opening written down value at Rs.NIL as against the same shown in preceding previous year at Rs.79,528/-. So, there was a total difference of Rs.21,14,028/-. In the return of income assessee had shown capital gain of Rs.2,45,918/-. However, assessing officer enhanced the capital gain of Rs.21,14,028/- owing to the aforesaid difference and thereby capital gain was computed at Rs.23,59,946/- in the intimation prepared u/s. 143(1) of the Income Tax Act, 1961 (in short "the Act"). This intimation order came into knowledge of assessee on 29.08.2018 when refund was adjusted. As per the assessee, it was a capital mistake in noting down the figures of opening balance of the written down value of land and furniture. As it was a case of mistake apparent on record, assessee filed multiple rectification applications u/s. 154 of the Act on different dates i.e. 15.01.2019, 25.01.2019, 24.01.2020 and 05.02.2020.

3. The assessee pleaded in the said rectification applications that there was a clerical error at the time of carry forward of opening balance of building and furniture in Schedule 'DOA' in ITR of AY 2011-12 which led to the difference of Rs.21,14,028/- in the opening balance of the assets. Due to this error, capital gain of Rs.23,59,946/- arose instead of Rs.2,45,918/- which led to a demand of Rs.7,20,280/- . As there was no response from assessing

officer on these applications, at last, the assessee filed grievance application on 23.7.2020e-Nivaran portal which was disposed of by the Revenue by holding that there was no mistake as ITR was processed based on information provided by assessee. Assessee preferred appeal before CIT(A) on 11.08.2020 against rectification order dated 23:07:2020 which was in time. The Ld. CIT(A), however, vide order dated 19.02.2023 rejected assessee's appeal on the ground that assessee's application filed u/s.154 of the Act was time-barred being filed after expiry of 4 years from end of FY 2012-13 in which the order u/s. 143(1) of the Act was passed on 04.02.2013. The assessee did not file the appeal against this appellate order of CIT(A) passed on 19.02.2023 before this Tribunal. Instead, the assessee filed belated appeal before the CIT(A) after receipt of order u/s.250 dated 19.02.2023, against intimation order u/s. 143(1) of the Act. The Ld.CIT(A) however dismissed the said appeal of the assessee being barred by limitation. The assessee thus, has come in appeal before us.

3.1. The Ld. Counsel for the assessee has submitted that since the assessee was pursuing the remedy of rectification of mistake by filing applications u/s.154 of the Act, hence, the delay of 812 days had occurred in filing the appeal before the Ld.CIT(A) against the original order passed u/s.143(1) of the Act. That though, the Ld.CIT(A) has calculated the delay of 1646 days, but as per the assessee, the delay occurred was of 812 days after excluding the covid period. The Ld. Counsel for the assessee has relied upon various case-laws to submit that the delay occurred in filing the appeal before the Ld.CIT(A) was not intentional, but was due to the reason that the assessee was pursuing its alternative remedy by filing application u/s.154 of the Act for rectification of mistake apparent on record. He has further submitted

that the assessee has a fair case on merits as there was only a clerical error in mentioning the figures of carry forward of opening balance of building and furniture, which the AO has treated as capital gain earned by the assessee.

4. The Ld.DR, however, relied upon the findings of the Id.CIT(A).

5. We have considered the rival submissions. We find that the assessee was genuinely contesting the addition made by the AO of capital gain of Rs.21,14,028/-, whereas, the case of the assessee is that the assessee earned capital gain of Rs.2,45,918/- only, which were duly disclosed in the return of income. It was also submitted before the lower authorities by the assessee that a clerical error has occurred in mentioning the figure of carry forward of opening balance of building and furniture. It has been time and again held that the Income Tax Authorities should charge only legitimate taxes from the assessee. That the assessee should not be punished for their bona fide mistakes. Further, in this case, the assessee was, genuinely and in good faith, pursuing its remedy by filing application u/s.154 of the Act for rectification of mistake, as in this case the assessee had pleaded that there was a clerical error in recording the figure of carry forward of opening balance of building and furniture. Therefore, it cannot be held to be a case of negligence on the part of the assessee in pursuing his remedy. Delay in filing the present appeal had occurred because the assessee was under bona fide belief that the aforesaid clerical error will be rectified in its application filed u/s.154 of the Act. Further, the assessee filed grievance petition before the Income Tax Authorities, but the same was also rejected and, in the course, the aforesaid delay in filing the present appeal has occurred. Considering the overall facts and circumstances and taking into consideration the interests of justice, the

delay in filing the appeal before the Ld.CIT(A) is hereby condoned and the matter is restored to the file of Ld.CIT(A) with a direction to consider the contentions of the assessee on merits and decide the appeal of the assessee by way of speaking order.

6. With the above observations, the appeal of the assessee is treated as allowed for statistical purposes.

**Order is pronounced under provision of Rule 34 of ITAT Rules, 1963
on 12/09/2025.**

**Sd/-
(Bijayananda Pruseth)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

दिनांक/Dated 12/09/2025

टी.सी.नायर, व.नि.स.।T.C. NAIR, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The o/o CIT(A, Addl/JCIT (A) Prayagraj
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,सूरत /AR,ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, ITAT,Surat/Ahmedabad