



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

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 410 & 411/RJT/2025
(निर्धारणवर्ष/Assessment Year: (2011-12 to 2012-13))

Kranti Electric Engineering Pvt. Ltd., Shed No. C-1, B-239, GIDC AJI Vasahat, AJI IND Area, Rajkot-360003	Vs.	Income Tax Office, ITO Ward – 2(1)(4), Income Tax Office M.G.Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCK7630E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : Shri Raju Manek, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 02/09/2025
Date of Pronouncement : 17/09/2025

ORDER

Per, Dr. Arjun Lal Saini, AM:

The present two appeals have been filed by the same Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] both order dated 01.11.2024 arising in the matter of assessment order passed u/s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2011-12 & 2012-13.



2. Since, the issue involved in these appeals are common and identical, therefore both these appeals are clubbed and heard together and are decided by the consolidated order for sake to convenience and brevity.

3. The Grounds of appeal raised by the assessee, are as follows:

“The under mentioned grounds are without prejudice to each other.

- 1. The Learned CIT (Appeals) has erred in dismissing the appeal on the grounds of non prosecution which is bad on facts and also in law.*
- 2. The Learned CIT (Appeal) has passed order without adjudicating on merits on the issue raised before him which is bad on facts and also in law and it ought to be set aside to Learned I.T.O.*

Without Prejudice to above grounds.

- i. The CIT (Appeal) and Assessing officer have erred in confirming the addition made by issuing notice u/s. 148 of I.T. Act which is bad in law and also on the facts.*
- ii. The notice U/s.148 is bad in law as the reopening of Assessment is on the reason recorded in mechanical manner referring on the basis of the information supplied by DCIT, Central Circle-1, Rajkot and relying on the search operation carried out on M/s. National Shroff Company which is bad in law and it ought be quashed.*
- iii. The Learned CIT(A) has confirmed the addition as made by the A.O. without appreciating the content of affidavit filed and also no information and materials provided to the petitioner upon which reason recorded by the by Learned A.O. for alleged addition which is bad on facts and also in law it ought to be set aside.*
- iv. The Learned CIT(A) has erred in confirmation addition of Rs. 14,47,550/- as made by learned I.T.O. vide ex-parte order which is bad on facts and also in law.*

Your Petitioner crave, leave to add, alter, vary, withdraw any grounds of appeal before or at the time of hearing of this appeal,”

4. Both these appeals filed by the assessee, are barred by limitation 133 days. The assessee has moved a petition requesting the Bench to condone of delay in filing both the appeals. The contents of condonation of delay which are similar in both these appeals are as follows:-



“1. I Mahendra Jadavbhai Kothadia Director of Kranti Electric Engineering Pvt. Ltd., having Registered office at shed No.C-1, B-239, GID Aji vasahat, Aji Industrial Area, Rajkot. Do hereby affirm and

2. THAT the Learned CIT (A) vide order Dt.01/11/2024 had confirmed the addition of Rs.14,47,550/- as mad by the Learned I.T.O. The Penalty proceeding u/s.271(1)(C) also initiated.

3 THAT I had to prepare and file the appeal before Hon'ble I.T.A.T., Rajkot on or before 31st Jan 2025 but there is delay in filing the appeal for about 133 days as I have not been informed by my office clerk and when I came to know, I consulted my C.A./ advisor and file this appeal immediately before Hon'ble I.T.A.T., Rajkot.

4. Order THAT the business of Kranti Electric Engineering Pvt.Ltd.; was ceased and GST Number has also been cancelled vide No.ZA240620021918P DTD.31-12-2019.

5. THAT I have been interested in Prosecuting the present appeal.

6. THAT the delay in filing this appeal is because of bonafide reason that I had no intention to jeopardize the interest of reference by delaying the filing of this appeal”

5. The Ld. Counsel for the assessee submitted that because of the mistake of tax consultant, the assessee should not be penalised, and based on the contents of the petition for condonation of delay, the assessee has explained the reasons of delay, therefore, delay in filing the appeal in both the cases may be condoned.

6. The Ld. Sr. DR for the revenue opposed the prayer of the assessee for condonation of delay of 133 days in both appeals and stated that the assessee has failed to explain the sufficient cause to condone the delay, therefore, delay should not be condoned, and the appeal of the assessee should be dismissed.

7. I have heard both the parties on this preliminary issue and note that reasons of delay explained in the petition for condonation of delay are, convincing and assessee has explained the sufficient cause to condone the delay in filing both the appeals stating that because of the mistake of tax consultant, such delay has occurred. Since, the contents of both the petition for condonation of delay are



identical and same, therefore, I condone the delay in filing both these appeals and admit these two appeals for hearing.

8. On merits, the facts of the case that the assessee has filed return of Income declaring total income of Rs.NIL on 03.09.2012 for the year under consideration. As per the information available with the department and on enquiry, it is noticed that the assessee had made cash deposit amounting to Rs. 18,79,200/- with M/s National Shroff Rajkot during the year under consideration. Search and seizure as well as survey action were carried out on the group of Angadiyas and Shroffs in the search operation, Chetan Bhalodiya Group, Saurabh Kathavadia and National Shroff Group were covered. In the entire operation, 3 different modus-operandi of tax evasion were unearthed. One is mode of tax evasion unearthed is receiving proceeds of under-invoiced sales and unaccounted sales in the bank accounts of the angadiya. It has been found that the persons covered in the operation used to receive the cash from outstations on behalf of the beneficiaries and transfer the same cash to them through on intermediary and earns commission over the same. The above named assessee is one of the beneficiaries and made transaction with M/s National Shroff, Rajkot. In the circumstances the source of financial transaction to the extent of Rs 18,79,200/- with M/s National Shroff (Angadia Group) remains undisclosed income, requires to be brought under tax net. It was also noticed that assessee has filed return of Income declaring total income at Rs NIL for AY 2012-13. Therefore, it was concluded that an amount to tune of Rs 18,79,200/- has escaped the assessment Therefore the assessment was re-opened by issuing a notice u/s 148 of the IT Act through ITBA system on 18.03.2019 (after recording reasons) after obtaining approval of the Chief Commissioner of Income Tax (OSD), Rajkot and duly served upon the assessee. In reply, the assessee has filed return of income and declaring total income at Rs. NIL on 20.11.2019 electronically.



9. In response to show cause notice dated 18.11.2019, the assessee has filed return of Income declaring total income at Rs.NIL on 20.11.2019 electronically. Further the AR of the assessee has furnished the submission vide letter dated 20.11 2019 electronically. For the sake of ready reference the relevant para of the reply is reproduced-

"1. We have not made any cash deposit with the National Shroff as mentioned in your notice

2. The return for Income tax was filed on 03.08.2012 wide acknowledgement No. 48122793103912 The copy of the same is submitted here with

3. The return for income tax in response to notice under section 148 is also filed and copy of the same is attached here with

4. The copy of the Audit Report is submitted here with.

5. The copy of the cash book is submitted here with for your verification. It is needless to say that no cash deposit was made with National Shroff throughout the year

10. However, the assessing officer rejected the above reply of the assessee and observed that the Department is in possession of concrete evidence which proves that the assessee has carried out cash transactions of Rs. 18,79,200/- through/with National Shroff, Rajkot (Angadiya Group) and the assessee could not explained the source of the same. On the basis of above discussion, it is clear that the assessee company had made the cash transaction with M/s National Shroff, Rajkot during the year under consideration. The same is not shown in books of account of the assessee. Therefore, an addition of Rs. 18,79,200/- has been made to the total income of the assessee.

11. On appeal by the assessee, the Ld. CIT(A) dismissed the appeal of the assessee. The assessee has neither appear before the appellate proceedings nor any details and documents were filed by the assessee during the appellate proceedings before the Ld. CIT(A), therefore, the Ld. CIT(A) has passed an ex-parte order.



12. At the outset itself, the Ld. Counsel for the assessee argued that the assessee could not represent his case before Ld. CIT(A) and the order being an ex-parte order, stood vitiated on account of violation of principle of natural justice. The Ld. Counsel for the assessee has fairly agreed that this Bench had remitted all the appeals related to Angadiya M/s. National Shroff to the file of the Assessing officer for fresh adjudication. The assessee is one of the Beneficiaries of M/s. National Shroff, Rajkot and therefore, the Ld. Counsel submitted that now assessee wants to submit required documents and evidences and some additional documents and details before the assessing officer, therefore, matter may be remitted back to the file of the assessing officer for fresh adjudication.

13. The ld. DR for the Revenue did not raise any objection if the matter is remitted back to the file of the assessing officer.

14. 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. 143(3) of 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.

15. 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 case of M/s. National Shroff has already been remitted back to the file of the assessing officer for fresh adjudication. The assessee under consideration is one of the beneficiaries of M/s. National Shroff Company, hence, I



remit the assessee's appeal back to the file of assessing officer for fresh adjudication. Therefore, I deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Assessing officer to adjudicate the issue afresh on merits. For statistical purposes, these appeals of the assessee are treated as allowed.

16. In the result, the appeal of the assessee(ITA No. 410&411/Rjt/2025 for AY 2011-12 to 2012-13) are allowed, for statistical purposes

Order is pronounced in the open court on 17/09/2025.

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

राजकोट/Rajkot

(True Copy)

दिनांक/Date: 17/09/2025

Copy of the order forwarded to :

1. The assessee
2. The Respondent
3. The CIT(A)
4. DR, ITAT, RAJKOT
5. Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot