

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, SURAT**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**I.T.A. No.662/SRT/2025
Assessment Year: 2017-18**

Tarunaben Amitkumar Patel Survey No. 755/4, Gala No. 06/07, Laxmi Industrial Estate Dbhel, Nani Daman - 396210 PAN – BYBPP8621F	Vs	ITO, Ward Daman, Hotel Diwanji Bldg, Devkanad, Daman - 396210
(Appellant)		(Respondent)

Assessee by	Shri Suresh K Kabra, CA
Revenue by	Shri J.K Chandnani, Sr. DR

Date of Hearing	08.10.2025
Date of Pronouncement	15.10.2025

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal has been filed by the assessee challenging the impugned order dt. 23.04.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2017-18.

2. From the records, we noticed that the assessee was ex-parte before the AO and Ld. CIT(A) dismissed the appeal as the same was filed beyond the period of limitation.

3. We have heard the counsels for both the parties, perused the material placed on record and the orders passed by the revenue authorities. From the records, we noticed that assessee filed an affidavit explaining the circumstance because of which he could not file the appeal within time before the Ld. CIT(A) which are reproduced herein below:

01. DELAY in receipt of the Assessment Order: The Assessee is a retail trader operating under the name of Global Textiles. In 2018, the business was closed. The Assessee had filed her Return of Income u/s 139 declaring a TOTAL INCOME of Rs 5,20,290/-. The case was selected notices were issued under "Limited Scrutiny" and accordingly. The notices by E-Mail were issued on the E-Mail ID as njjrathod2014@gmail.com. This id belongs to the Accountant of the Appellant. The accountant did not update the Assessee on this issue and therefore the assessee could not attend the assessment proceedings. The copy of the Notices issued at the above E-Mail id is enclosed herewith as per ANN did not inform the Assessee regarding the Assessment Order dated 12/12/2019. The Assessee remained unaware of the Assessment Order and the demand. Later, the Assessee received a recovery notice from the Department in the month of October 2023. The A The accountant even hurried to the Accountant asking him about the matter. The Accountant then Assessment the provided from Order the portal/E-Mail. Thus the Assessment Order was in fact received by the Assessee only in the first week of the October 2023. Immediately the Assessee took immediate action to file the Appeal before the Ld CIT(A)-NFAC. The Appeal fee challan was paid on 10/10/2023 and the Appeal in Form No 35 was filed on 11/10/2023 before the Ld CIT (A)-NFAC. Your honours would appreciate that from the date of receipt of the Assessment Order by the Assessee, the Appeal was filed in time within 30 days. However, the Ld CIT (A)-NFAC had considered the date of Assessment Order as Date of Receipt and accordingly calculated a delay of 1369 days. Further considering the Pandemic period and decision of Hon'able SC

finally calculated the Delay of 653 days. In fact the Assessee could pray before your honours that the Assessee was not at all aware of the fact that any Assessment Proceedings was ever being going on in his case. It was only with the Demand recovery, the Assessee came to know about the Assessment Order and as a sincere Taxpayer, immediately he took proper action and filed the Appeal before the CIT (A) - NFAC.

It is prayed before Your honours that the delay was circumstantial, and the Assessee had never acted mala fide. The appellant would ensure that he is more vigilant and would like to Assure your honours for timely compliances without any adjournments except situations beyond control.

NON-ATTENDANCE before the Ld CIT(A)-NFAC: had mentioned E Mail id The as Gobaltaxiles77@gamil.com in the Form No 35. However, the Notice was issued on njrathod2014@gmail.com. Further the Ld CIT (A)-NFAC had issued only ONE notice to the Appellant on 12/02/2025. The screen shot of the Portal page displaying the Notices issued is enclosed herewith B screen shot of the displaying the E Mail on which the Notice is issued is also enclosed herewith as per ANN as per ANN The page Since the Notice issued reached to the E Mail of the Accountant as earlier mentioned in this Note, the Appellant did not get the Notice. With this SOLE notice, the Ld CIT (A)-NFAC straightaway jumped upon to pass the Order dismissing the Appeal for the reason of DELAY in filing the Appeal. Thus, the Ld CIT (A)-NFAC did not provide proper opportunity to the Assessee.

04. of As the Assessee was not aware the Assessment Proceedings, he was deprived of any opportunity to submit his case before the Ld Assessing Officer. Further the Ld CIT (A)-NFAC also dismissed the Appeal for the DELAY in filing. Thus the Assessee did not get opportunity to present his case before the lower authorities.

05. It is therefore prayed and requested the DELAY before the Ld CIT (A)-NFAC may be kindly condoned, and the matter may be kindly sent back to the ASSESSING OFFICER for making de-novo Assessment.

06. The E Mail id for the purpose may be used as globaltextilesadp@gmail.com. The appellant would ensure that there would be full compliance of the Notices and assures accordingly to the Bench.

07. The Appellant was not benefited by DELAYED filing of the Appeal rather, he had been at loss because of not having the information of the Proceedings.

08. It is humbly prayed that the appellant would badly suffer in case he is not allowed the opportunity and for such direction, the Appellant would remain obliged.

3. Considering the entire factual position as explained before us and also keeping in view, the principles laid down by Hon'ble Supreme Court in the case of ***Land Acquisition Collector Vs. Mst. Katiji & Ors., [1987] AIR 1353 (SC)***, wherein it has been held that where substantial justice is pitted against technicalities of non-deliberate delay, then in that eventuality substantial justice is to be preferred. In our view the principals of advancing substantial justice is of prime importance. Hence considering the explanation put forth by the Assessee by justifiably and properly explaining the delay which occurred in filing the appeal and construing the expression "sufficient cause" liberally we are inclined to condone the delay in filing the appeal before Ld. CIT(A). Therefore we are inclined to condone the delay in filing the appeal before CIT(A).

4. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that there was reasonable cause, because of which assessee

could not put effective representation before AO &Ld. CIT(A). Hence the Bench is of the view that one more opportunity be given to the assessee to represent his case before AO. Therefore considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of AO for deciding the appeal afresh by providing one more opportunity to the assessee

5. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the AO independently in accordance with law.

6. In the result the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 15/10/2025

Sd/-
(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Surat:
Dated:15/10/2025

KRK, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Surat