

**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.877/SRT/2025
Assessment Year: 2017-18**

Zeba Ajmal Pothiwala A-704, Shilparaj Aptt., Ganga Sagar Society, Adajan Patia, Surat - 395009. PAN - BQHPP1784Q	Vs	ITO, Ward - 1(2)(6) Room No. 303, Anavil Business Centre, Pal - Hazira Road, Adajan, Surat.
(Appellant)		(Respondent)

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

Date of Hearing	06.10.2025
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. 07.10.2024 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. At the very outset, we noticed that there is delay of 233 days in filing present appeal and in this regard an application for seeking condonation of delay has been filed by the assessee, wherein it has been mentioned as under:

01. *The Appellant is a Doctor (BHMS) by profession and runs her own clinic and handles the family working. She had appointed one Accountant Shri Ashfaq Ajari, who was handling all Accounts related work and also filing of the Return of Income and handling the Tax matters. The Mobile and E-Mail Id of the Accountant Shri Ashfaq has been provided for the convenience of working, in the ITR and Other Tax matters.*

02. *For the AY 2017-18, the case of the Assessee was reopened u/s 148 for the reason of CASH deposit of Rs 8,50,000/- during the Demonetisation period. The matter was being handled by the Accountant Shri Ashfaq Ajari and all the notices and alerts were being received on his E Mail Id and Mobile No.. For the reasons best known to the Accountant, the details with regard to the Scrutiny Notices, NO replies were submitted by him. When the Assessment Order was received on his E-Mail, he called upon the Assessee and apologised for his maitake and requested the Assessee to file Appeal before the Ld CIT (A)-NFAC in the matter through some Tax Consultant CA. The Assessee then requested her husband Shri Ajmal Bhaito take care of the matter. shri Ajmal then entrusted the filing of Appeal to another CA of his reference*

03. *The Appeal before the Ld CIT(A)-NFAC was filed in time. However, per the programme the Portal with regard to the E-Mail Id and Contact Mobile Number was not changed. As at the Portal, the PROFILE of the Assessee is auto populated, and changes cannot be made manually without following a procedure. Thus, the Contact number and the E-Mail id remained the same i.e. of the Accountant Shri Ashfaq Ajari. Shri Ajmal was in regular touch with the said CA, and he was always giving assurance that the process is ongoing. In the meantime, the DTVSV-2024 was also declared and alert messages for VSVS were also started on the Mobile of the Assessee. These were also forwarded to the Said CA.*

04. *When despite regular follow up for 2 years with the CA, who had filed the Appeal, Shri Ajmal got impatient. He then contacted his cousin brother Shri Abdulla Pothiyawala, who is a GST Consultant, somewhere in the month of June 2025. Shri Abdulla then traced the Portal and found that the Ld CIT(A)-NFAC had already passed the Order on 07/10/2024. This was*

shocking to Shri Ajmal. He requested Shri Abdullah to suggest Senior CA who could guide him in the matter. some

05. Thus, the Order of the Ld CIT(A)-NFAC came into the knowledge of the Assessee only on 20/06/2025. Therefore this date has been mentioned in the Form 36 Appeal Memo as the Date of receipt of the order of the CIT(A)-NFAC. The Appeal before your honour is filed on 20/08/2025 i.e. within 2 months from the end of the month in which the Order of the CIT(A) is received.

06. Your honours would appreciate that the Assessee had not been negligent and had been fully active in pursuing the matter but for not having the knowledge of the timelines and procedures of the Income Tax laws, he had to be dependent on the Tax Consultant CAs. It is submitted that by delaying in filing the Appeal, the Assessee is not benefited, and he acted under the bonafide assurances from the Tax Consultant CA, who had filed the Appeal. There is no prejudice caused to the Revenue if the delay in receiving the Order by 232 days is condoned and the appeal is admitted.

07. Your honours would further appreciate that the Assessee has a good case on Merits, considering the decision of the Rajeev Bansal by Hon'able SC. The chart is enclosed detailing the dates on which herewith as per ANN Notices were issued in the month of June 2021 u/s 148 and the further notices u/s 148A(b) and 148A (d) issued in view of the Decision of Hon'able SC in the case of Ashish Agarwal.

08. I shall ever remain obliged.

3. From the records, we noticed that assessee was *ex-parte* before AO and Ld. CIT(A). In this regard Ld. AR explained the circumstances before the bench that there was 'sufficient cause' which prevented the assessee to represent properly before AO and Ld. CIT(A). On the other hand DR relied upon the orders passed by the revenue authorities.

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 and 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