

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

Chamana Ram Flat No. 402, Ambika Parekh, Nr. Sanskar Bhartiya School, Kumbharwad, Vapi, Valsad – 396191. PAN – CDDPR3432D	Vs	ITO, Ward -1, 7, 8 & 9 th Floor Fortune SquareII, Above TBZ, Chala, Vapi – 396191.
(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. 22.03.2025 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 2011-12.

2. At the very outset, we noticed that assessee was *ex-parte* before AO and Ld. CIT(A). In this regard Ld. AR explained the circumstances because of which he could not

appear before the lower authorities which are reproduced herein below:

01. the Non-Attendance before the ASSESSING OFFICER: The Assessee is a retail trader. The Assessee had filed his Return of Income u/s 139 declaring a TOTAL INCOME of RS 3,41,260/- . The case of the Assessee was reopened u/s 147 issued on of the Act. The notices by E-Mail were E-Mail ID as ankitpatel6104@gmail.com. This id belongs to the Accountant of the Appellant. The accountant did not update the Assessee on the issue of reopening of the case and the resultant Assessment Proceedings. Therefore, the assessee could not attend the assessment proceedings. The copy of the Notices issued at the above E Mail id is However, for good, enclosed herewith as per ANN the accountant provided the copy of the Assessment Order timely and the Appeal before the Ld CIT(A)-NFAC could be filed in time. The Assessee remained A unaware of the Assessment proceedings; therefore, the compliance could not be made before the ld Assessing Officer.

02. NON-Attendance and DELAY in receipt of the order of the CIT(A)-NFAC: The order of the Ld CIT(A)-NFAC was passed on 19/12/2023. However, as the E Mail id was of the Accountant, the Notices as well as the Order of the CIT(A) was not received by the Assessee. For the reason the Appellant could not attend the proceedings before the CIT(A)-NFAC. Whenever, it was enquired from the Accountant, he used to assure the Appellant that the matter is being taken care of. The Appellant trusted.

03. Later, When the Assessee's Bank a/c was attached in May-june 2025, the Assessee contacted another Tax Consultant The new Tax CA to know the exact position of his case. Consultant CA visited the Portal and found that an Order of CIT (A)-NFAC is available on the Portal but the The was not same a assessee raised getting downloaded. grievance on the Portal on 06/06/2025. The copy of the Grievance is enclosed herewith as per ANN Accountant for two-three times, on DATE of RECEIPT The he as Assessee then approached the Accountant and persuaded him to find the Order of the CIT(A)-NFAC. After visiting the 09/06/2025, provided a copy of the Appeal Order of the Ld CIT(A)-NFAC dated 22/04/2022. Earliest the Assessee took action and immediately got the Appeal filed

before the SURAT ITAT on 13/06/2025. the Considering 09/06/2025, the Appeal before the Bench is filed in time. However, the delay in receipt of the CIT (A) order was beyond his control and the intervening period from the date of order (19/12/2023) to date of receipt of the CIT (A) order (09/06/2025) is requested to be excluded while considering the DELAY for the reason explained in this note.

04. 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 your honours for timely compliances without any adjournments except situations beyond control. to Assure

05. and It is earnestly requested to kindly condone the delay in consider the Appeal CIT (A) condone/exclude the period of delay in receiving the direct the Ld to CIT(A)'s Order by the Assessee. The delay in RECEIPT of the Appellate Order was not intentional and deliberate. The same for bona fide reasons as stated. The appellant would ensure that there would be full compliance of the Notices and assures accordingly to the Bench.

06. 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.

07. It is humbly prayed that the appellant would badly suffer in case he is not allowed the opportunity and it is therefore prayed and requested that the case may be kindly sent back to the Assessing Officer for de-novo assessment proceedings.

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