



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT  
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER  
AND  
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER**

**आयकरअपीलसं./ITA No.94/RJT/2025**

**Assessment Year: (2017-18)**

M/s. Apex Irrigation Survey No. 270, Plot No.4, B/H Maruti Petrol Pump, National Highway 8B, Shapar(Veraval), Rajkot-360024	Vs.	The ITO Ward-1(1)(1), Aayakar Bhavan, Race Course Ring Road, Rajkot-360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>AAJFA4917D</b>		
(Appellant)		(Respondent)

**Appellant by** : Shri Brijesh Parekh, Ld. A.R.  
**Respondent by** : Shri Abhimanyu Singh Yadav, Ld. Sr. DR  
**Date of Hearing** : 18/08/2025  
**Date of Pronouncement** : 30/10/2025

**आदेश/ ORDER**

**Per, Dinesh Mohan Sinha, JM:**

Captioned appeal filed by the assessee is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 31.07.2023, which in turn assessment order passed by Assessment Unit, Income Tax Department / Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short “the Act”), vide order dated 16.12.2019

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

1. *Unexplained Cash Credit u/s. 68*
2. *Expenditure Disallowed u/s. 40(a)(ia)*
3. *Expenditure disallowed as revenue and treated as capital expenditure*



3. At the outset, that the appeal filed late by 461 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The relevant para of the application for delay is as under;

*“1. The Deponent APEX IRRIGATION is the PARTNERSHIP FIRM of the firm above named and hence is fully conversant of the facts deposed below:*

*2. That the deponent received assessment order passed by CIT(A) on 31st July 2023.*

*3. That appeal was to be filed by 29th September 2023.*

*4. That deponent was not being well-versed in the intricate provisions of taxation and legal procedures, relied entirely on professional guidance for compliance with the appeal filing requirements.*

*5. That in this way there is a delay of only 493 days for which an application under Section 5 of the Limitation Act has been filed along-with memorandum of appeal.*

*6. That delay in filing the appeal is because of negligence of the accountant and the contact details registered also belonged to him and not the appellant.”*

4. During the course of the hearing, the Ld. AR submitted that the assessee was not aware about the legal procedure and prayed for one more opportunity to the assessee to explain this case.

5. On the contrary, the Ld. DR for the revenue has no objected to the prayer of the Ld. AR , however the Ld. DR requested that the assessee must be directed to present his case before the Ld. AO, and do not seek unnecessary adjournments.

6. We have heard both the parties. We note that delay of filing before this Tribunal That deponent was not being well-versed with the provisions of taxation and legal procedures, relied entirely on professional guidance for compliance with the appeal filing requirements. we have considered the submission advance by the AR the assessee is found to have a "sufficient cause" for delay in filing present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not



presenting appeal within prescribed time. In the interest of justice, we take a judicious view and we condoned the delay in filing appeal by 461 days

7. Brief facts of the case are that assessee is engaged in the business of manufacturing, importing and exporting polymer pipes and plastic products. Return of income for the Assessment Year 2017-18 was e-filed by assessee on 30/10/2017 declare Income at Rs. 5,51,700/-. The case was selected for limited scrutiny in CASS for e- assessment proceedings, a statutory notice u/s. 143(2) of the I.T Act, 1961 was issued on 12/08/2018 which was served on the assessee within time limit. A notice u/s. 142(1) alongwith detailed questionnaire was issued on 22/07/2019 which was served on the assessee. However, assessee in response submitted partial details seeking some more time to comply with the term of notice. During the assessment proceedings, following the principle of natural justice gave a final opportunity to assessee by Notice dated 30/12/2019 with request to submit the details on or before 10/12/2019. That the assessee did not responded and the assessee complied with 16.12.2019 addition of Rs.1,06,26,000/- on account of unsecured loan, Rs.6,76,434/- on account of TDS not deductible, and Rs.29,750/- on account of depreciation disallowance.

8. The assessee filed an appeal against the order dated 16.12.2019 of before the Ld.CIT(A). which was dismissed by the Ld.CIT(A) on 31.07.2023 with following remarks:

*“6. Decision: In this case, the addition has been made by the Assessing Officer worth Rs. 1,06,26,000/- u/s 68 of the Income Tax Act, 1961. Appellant had received unsecured loan of Rs. 1,09,26,000/- out of which Rs. 1,06,26,000/- was received from Shri Karshan Solanki. The appellant produced ledger account, bank statement and Return of Income of Shri Karshan Solanki before the Assessing Officer but could not produce him before the Assessing Officer. As per Return of Income, it was found that the total income filed by Shri Karshan Solanki was Rs. 2,88,000/-. The creditworthiness of Shri Karshan Solanki could not be explained before the Assessing Officer. Hence, the Assessing Officer made the addition.*”



*6.1 Now before me in the the appellate proceedings, written submission has been filed along with the bank statement. The creditworthiness could not be explained before me. The entries in the bank account of Shri Karshan Solanki have not been explained. Hon'ble Delhi High Court in the famous case of M/s. N.R. Portfolio Vs. PCIT has held that mere entries in the bank account do not explain the nature of the transaction. This decision of Hon'ble Delhi High Court has been approved by Hon'ble Supreme Court. Relying upon this decision of Hon'ble Delhi High Court, the addition of the Assessing Officer on this ground is upheld and appeal of the appellant is dismissed.*

*6.3 The Assessing Officer has made another addition of Rs. 6,76,434/- u/s 40(a)(ia) of the Income Tax Act, 1961. The Assessing Officer made out the case that TDS has not been deducted on certain payments and in certain cases they have been deposited after the due date. Hence, the Assessing Officer made the addition.*

*6.4 Now before me in the appellate proceedings, the appellant has contended before me that the appellant has not received 26AS from the Chartered Accountant. Hence, the appellant has accepted its mistake. Hence, the addition of the assessing officer is confirmed on this ground.*

*7. In the result, the appeal of the appellant is dismissed.”*

9. That the assessee challenged the legality and validity of the impugned order dated 31.07.2023 and filed an appeal before us.

10. During the course of hearing, the Ld. AR of the assessee submitted that all documents and evidences were submitted before the Ld.CIT(A) and requested to given an opportunity to explain the case before the lower authority.

11. On the contrary, the Ld. Sr. DR submitted that unsecured loan not proved by the assessee. However, Ld. Sr. DR has not objected to the prayer of the assessee.

12. We have heard both the parties and perused the material available on record. We note that the finding of the Ld.CIT(A) that the assessee could not explain the creditworthiness of the person from whom loan taken and addition of Rs. 6,76,434/- the assessee has not deducted in certain payment and in certain payment TDS deposited. We note that the AO has refused to grant one more opportunity to the assessee to explain the case. We further note that before the Ld.CIT(A) the assessee has submitted documents such as ledger account, Bank Statement, Return of Income but the Ld.CIT(A) has not taken the remand report



from AO. Considering the assessee facts and circumstances and in the principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Therefore, without delving much deeper into the merits of the case, in the interest of justice, we restore the matter back to the file of Ld. CIT(A) for de novo adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, we deem it fit and proper to set aside the order of the Ld. CIT(A) and remit the matter back to the file of the Ld. CIT(A) to adjudicate the issue afresh on merits.

13. In the result, the appeal of the assessee is allowed for statistical purposes.

**Order is pronounced in the open court on 30/10/2025**

**Sd/-**

**(Dr. A. L. SAINI)**  
**ACCOUNTANT MEMBER**

Rajkot

दिनांक/ Date: 30 /10/2025

**Copy of the Order forwarded to**

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

**Sd/-**

**(DINESH MOHAN SINHA)**  
**JUDICIAL MEMBER**

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot