

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT
BEFORE SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER &
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.142/SRT/2024

Assessment Year: (2017-18)

(Physical hearing)

Indravadan Gamanlal Gandhi AT: Areth, Post. Areth, Tal: Mandvi, Surat-394 010	बनाम/ Vs.	Assistant Commissioner of Income- tax, Central Circle-2(1)(1), Surat, Aayakar Bhawan, Majura Gate, Surat-395 001
स्थायी लेखासं./जीआइआरसं./PAN/GIR No: AAJPN 9673 M		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Shaunak Zaveri, CA
राजस्व की ओर से/Respondent by	Shri Ajay Uke, Sr. DR
सुनवाई की तारीख /Date of Hearing	10/09/2025
उद्घोषणा की तारीख /Date of Pronouncement	30/10/2025

आदेश / ORDER

PER BIJAYANANDA PRUSETH, AM:

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act') dated 03.10.2023 by the National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals) [in short, 'CIT(A)'] for the assessment year (AY) 2017-18, which in turn arises out of assessment order passed by the Assessing Officer (in short, 'AO') u/s 144(3) of the Act on 28.12.2019.

2. The grounds of appeal raised by the assessee appeals are as under:

"1. That on the facts and in the circumstances of the case, the Ld. Commissioner of Income Tax (Appeals)-NFAC, [here-in-after referred to as Ld.CIT(Appeals)] was

not justified and grossly erred in dismissing the appeal which is bad-in-law and against principal of natural justice equity, thereby confirming the action of the A.O for the order passed u/s 143(3) of the I.T. Act, 1961 which is incomplete and also bad on facts.

2. That on the facts and in the circumstances of the case, the Ld. CIT(Appeals) was not justified and grossly erred and indirectly confirming the action of the AO in by accepting the addition on account of unexplained cash deposit u/s 69A of the Act amounting to Rs.92,50,000/- out of cash sales and out of cash-in-hand balance deposited in bank account from sale of petrol and diesel in his petrol pump and taxed total income u/s 115BBE of the Act at the rate of 60 percent without providing an opportunity which is incorrect and amp; bad-in-law and needs to be deleted in the interest of natural justice and equity.

3. That on the facts and in the circumstances of the case, the Ld. CIT(Appeals) was not justified and grossly erred and indirectly confirming the action of the AO in not justified and erred in confirming the initiated penalty proceedings u/s 271AAC r.w.s.274 of the Act.

4. The appellant craves leave to add, to amend, modify rescind, supplement or alter any of the grounds stated herein-above, either before or at the time of hearing of this appeal."

3. The appeal filed by the assessee is barred by 69 days in terms of provisions of section 253(3) of the Act. The assessee has filed an affidavit for condonation of delay in filing of appeal before the Tribunal. In the affidavit, it has been stated that the assessee has not received any notices of hearing issued by NFAC either physically or in the e-mail id cabirjjushah@gmail.com, given in Form-35. He has filed screenshot of e-proceedings before the CIT(A) which makes it clear that notices u/s 250 were issued in e-mail id D.GANDHI952 YAHOO.COM. Hence, the appellant was unaware of order passed by NFAC. The learned Authorized Representative (Ld. AR) of the assessee submitted that the delay in filing appeal was unintentional, *bona fide* and appellant was prevented by sufficient cause in

not filing the appeal in time. He requested that in the interest of justice, the delay may be condoned and the appeal may be admitted for hearing. On the other hand, learned Senior Departmental Representative (Sr. DR) for the revenue did not have any objection, if the delay is condoned.

4. We have heard both the parties and perused the materials available on record. We find that the delay in filing the appeal was not deliberate and intentional on the part of assessee. Moreover, the assessee is not going to be benefitted by filling appeal belatedly. It is now fairly settled that when technical consideration and cause of substantial justice are pitted against each other, the cause of substantial justice may be preferred. Hence, delay in filling the appeal is condoned and we proceed to decide the case on merit.

5. Brief facts of the case are that the assessee filed his return of income for AY 2017-18 declaring total income at Rs.17,79,070/-. The case was selected for scrutiny through CASS and notices u/s 143(2), 142(1) were issued from time to time. After hearing the assessee, the AO added Rs.67,90,000/- towards unexplained cash deposit u/s 69A of the Act. Aggrieved by the addition made by AO, assessee filed appeal before CIT(A), who issued three notices of hearing u/s 250 of the Act. Since there was no compliance, he dismissed the appeal of assessee by passing an *ex parte* order.

5. Further aggrieved by the above order of the CIT(A), the appellant has preferred present appeal before the Tribunal. The Ld. A.R. submitted that CIT(A) has passed *ex parte* order without giving adequate opportunity of hearing. The notices were sent in a wrong e-mail id., which has been stated in the affidavit filed by the assessee for the condonation of delay in filing appeal before the Tribunal. Since the notices issued u/s 250 of the Act were never received by the assessee, there was no question of participating in the appellate proceedings before the CIT(A). The order of the CIT(A) is in clear violation of the principles of natural justice. The Ld. AR, therefore, requested that another opportunity may be given to plead the case of assessee on merit before the CIT(A).

6. On the other hand, Ld. Sr-DR supported the order of lower authorities. He would, however, have no objection if the matter is restored to the file of CIT(A).

7. We have heard both the parties and perused the materials available on record. We find that the notices u/s 250 of the Act were issued on some wrong e-mail id by the office of CIT(A). Therefore, the appellant could not participate in the appellate proceedings and file explanation and details in support the grounds raised in the appeal. Therefore, in the interests of justice and fair play, we set aside the order of CIT(A) and restore it to his file for fresh adjudication after giving reasonable and adequate opportunities of being heard to the appellant. The appellant is directed to be more vigilant in appellate proceedings and file

reply and details as and when called for by CIT(A). The appeal is allowed for statistical purpose.

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

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963
on 30/10/2025 in the open court.

Sd/-
(DINESH MOHAN SINHA)
न्यायिक सदस्य/JUDICIAL MEMBER

सूरत /Surat

दिनांक/ Date: 30/10/2025

Dkp Outsourcing Sr.P.S*

Sd/-
(BIJAYANANDA PRUSETH)
लेखा सदस्य/ ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- **अपीलार्थी/ The Appellant**
- **प्रत्यर्थी/ The Respondent**
- **आयकर आयुक्त/ CIT**
- **आयकर आयुक्त (अपील)/ The CIT(A)**
- **विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT**
- **गार्ड फाईल/ Guard File**

By order/आदेश से,

// True Copy //

सहायक पंजीकार
आयकर अपीलीय अधिकरण, सूरत