



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
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. 143-145/RJT/2025
(निर्धारणवर्ष/Assessment Year: (2014-15-2016-17))

Kalpesh Chaturbhai Raiyani 8-New Meghani Nagar Corner, Sahakar Main Road, Rajkot - 360002	Vs.	The Income Tax Officer, Ward- 1(1)(1), Aaykar Bhawan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ASZPR8968H		
(अपीलार्थी/Assessee)		(प्रत्यर्थी/Respondent)

Assessee by : Shri Samir Bhuptani, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing : 26/08/2025
Date of Pronouncement : 04/11/2025

ORDER

PER, DINESH MOHAN SINHA, J.M.:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2014-15 – 2016-17, is directed against the order passed under section 250 of the Income Tax Act, 1961, by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 05.06.2024/06.06.2024, which in turn arises out of an order passed by the Assessing Officer u/s 147 read with section 144B of the Act, on 28.03.2022/ 29.03.2024.



2. Grounds of appeal raised by the assessee are as follows (ITA No. 143-Rjt-25):

1. Ld. AO erred in law as well as on facts in not supplying the material based on which the assessment has been re-opened and 1 consequently opportunity of cross-examination has not been made available to the appellant. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

2. Ld. AO erred in law as well as on facts in passing assessment order u/s. 147 r. w. s. 144 of the act, which is contrary to the 2 provision of the act and hence illegal, invalid and void. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

3. Ld. AO erred in law as well as on facts in disabling the response button and video conference request even before passing the assessment order. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

4. Ld. AO erred in law as well as on facts in making addition u/s. 69B of the act of?. 42,53,076/- on account of gross deposits made in the account held with Shri Renuka Mata Multi State Urban Co-operative Society Ltd. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

5. Ld. AO erred in law as well as on facts in arbitrarily ignoring the 5 withdrawal side of the very same account. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

6. Ld. AO erred in law as well as on facts in not restricting the addition upto profit element embedded in the deposits. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

7. Ld. AO erred in law as well as on facts in not restricting the addition upto peak investment in the account with society. Ld.. CIT(A) erred in law as well as on facts in not adjudicating the same.

8. Ld. CIT(A) erred in law as well as on facts in passing the ex-8 parte appellate order u/s. 250 of the Income Tax Act, 1961 which is bad in law and without appropriate jurisdiction.

9. Ld. CIT(A) erred in law as well as on facts in presuming that the appellant is not interested in prosecuting the appeal.



10. Ld. CIT(A) erred in law as well as on facts in not adjudicating the grounds of appeal raised by the appellant in his appeal memo and thereby dismissing the appeal for want of prosecution and without passing any comment on merit.

11. Ld. AO erred in law as well as on facts in re-opening the assessment by issuing notice u/s. 148 of the act which is bad in law and without appropriate jurisdiction. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

Grounds of appeal raised by the assessee are as follows (ITA No. 144-Rjt-25):

1. Ld. CIT(A) erred in law as well as on facts in passing the ex-parte appellate order u/s. 250 of the Income Tax Act, 1961 which is bad in law and without appropriate jurisdiction

2. Ld. CIT(A) erred in law as well as on facts in presuming that the appellant is not interested in prosecuting the appeal.

3. Ld. CIT(A) erred in law as well as on facts in not adjudicating the grounds of appeal raised by the appellant in his appeal memo and thereby dismissing the appeal for want of prosecution and without passing any comment on merit.

4. Ld. AO erred in law as well as on facts in re-opening the assessment by issuing notice u/s. 148 of the act which is bad in law and without appropriate jurisdiction Ld. CIT(A) erred in law as well as on facts in not adjudicating the same

5. Ld. AO erred in law as well as on facts in not supplying the material based on which the assessment has been re-opened and consequently opportunity of cross-examination has not been made available to the appellant. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same

6. Ld. AO erred in law as well as on facts in passing assessment order u/s 147 rws144 of the act, which is contrary to the provision of the act and hence illegal, invalid and void. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same



7. Ld. AO erred in law as well as on facts in disabling the response button and video conference request even before passing the assessment order. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

8. Ld. AO erred in law as well as on facts in making addition u/s. 69B of the act of 50,32,469/- on account of gross deposits made in the account held with Shri Renuka Mata Multi State Urban Co-operative Society Ltd. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

9. Ld. AO erred in law as well as on facts in arbitrarily ignoring the withdrawal side of the very same account. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

10. Ld. AO erred in law as well as on facts in not restricting the addition upto profit element embedded in the deposits. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

11. Ld. AO erred in law as well as on facts in not restricting the addition upto peak investment in the account with society. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

Grounds of appeal raised by the assessee are as follows (ITA No. 145-Rjt-25):

1. Ld. CIT(A) erred in law as well as on facts in passing the ex-parte appellate order u/s. 250 of the Income Tax Act, 1961 which is bad in law and without appropriate jurisdiction.

2. Ld. CIT(A) erred in law as well as on facts in presuming that the appellant is not interested in prosecuting the appeal.

3. Ld. CIT(A) erred in law as well as on facts in not adjudicating the grounds of appeal raised by the appellant in his appeal memo and thereby dismissing the appeal for want of prosecution and without passing any comment on merit.

4. Ld. AO erred in law as well as on facts in re-opening the assessment by issuing notice u/s. 148 of the act which is bad in law and without appropriate jurisdiction. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.



5. Ld. AO erred in law as well as on facts in not supplying the material based on which the assessment has been re-opened and consequently opportunity of cross-examination has not been made available to the appellant. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

6. Ld. AO erred in law as well as on facts in passing assessment order u/s 147 r. w s. 144 of the act, which is contrary to the provision of the act and hence illegal, invalid and void. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

7. Ld. AO erred in law as well as on facts in disabling the response button and video conference request even before passing the assessment order. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

8. Ld. AO erred in law as well as on facts in making addition u/s. 698 of the act of 68,72,029/- on account of gross deposits made in the account held with Shri Renuka Mata Multi State Urban Co-operative Society Ltd. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

9. Ld. AO erred in law as well as on facts in arbitrarily ignoring the withdrawal side of the very same account. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

10. Ld. AO erred in law as well as on facts in not restricting the addition upto profit element embedded in the deposits. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

11. Ld. AO erred in law as well as on facts in not restricting the addition upto peak investment in the account with society. Ld. CIT(A) erred in law as well as on facts in not adjudicating the same.

Out of these three i.e. ITA Nos. 143/Rjt/2025, 144/Rjt/2025, and 145/Rjt/2025. First, we shall take ITA No. 143/Rjt/2025 since, the issues involved in all these appeals are common and identical; therefore, these appeals are being disposed of by this consolidated order. For the sake of convenience, the grounds as well as the facts narrated in ITA



No.143/Rjt/2025, in the case of Shri Kalpesh Chaturbhai Raiyani, for assessment Year 2014-15, have been taken into consideration for deciding the above appeals *en masse*.

That the outset the register of this Tribunal inform that there is a delay of 207 days in filling the appeal before this Tribunal. That the assessee moved an application for condonation of delay in filing the appeal along with the affidavit, the relevant portion of the sad application is reproduced:

“b. In the course of the appellate proceeding all the notices were uploaded on web-portal of the Income Tax Department and also sent on mail-id viz. vdm.incometax27@gmail.com and wellforcepumps@gmail.com. On verification of mail-id it is noticed that first one is belonging to ex-tax consultant of the appellant and second one is belonging to the appellant. Further, mobile number connected to the profile of the appellant was also belonging to his ex-accountant.

c. However, the assessee has not been regularly accessing his e-mail id and the ex-tax consultant never intimated about the issue of notices to the appellant. Under such circumstances the council of the appellant could not be intimated about the issue of the notice of hearing, which led to the ex-parte appellate order.

d. Recently, in the last week of January-2025 the appellant, on hearing advertisement about the scheme by the Income Tax Department, approached the council of the appeal to know about the Vivad Se Vishwas Scheme. The council of the appellant has verified the e-proceeding tab and on verification of the same it was realized that the appellate order has been passed in ex-parte and hence the appellant was advised to prepare and file the appeal before Hon'ble Income Tax Appellate Tribunal.”

The Ld. AR explained that the assessee is a senior person and not having knowledge of technology; that the CIT(A) served notices of hearing as well



as impugned order under online mechanism which remained unnoticed by assessee the notice was sent to old consultant who did not inform to the assessee above the notice for hearing of the case. Further, there was no service of notices or impugned order through physical mode upon assessee. Therefore, the assessee did not have any information about fixation of hearings or about passing of impugned orders. Subsequently, it is only when the Government announce this scheme of Vivad Se Vishwas. In order to avail the benefit of this scheme the assessee approach to the Authority for settlement of its dispute according to law. then the assessee notice that no appeal is pending before CIT(A). the Ld. CIT has already passed ex-parte by CIT(A). Immediately thereafter, the assessee finally arranged professional to file this appeal with delay application. Ld. AR very humbly submitted that there is no deliberate lethargy, negligence, mala fide intention or ulterior motive of assessee in making delay and the assessee does not stand to derive any benefit because of delay. He further submitted that the sole reason of delay is as explained in the condonation-application/affidavit. Ld. AR further submitted that unfortunately, the assessee could not file proper particulars of business income / transactions to the AO and for this reason, the AO treated entire deposits as unexplained investment and made addition. The non-compliance was due to the reasonable circumstances. The appellant, therefore, most respectfully prays to kindly set aside the matter to the file of Ld. AO in the interest of justice to enable the appellant to submit necessary documents and explanations before the authority, which could not be submitted during the course of the assessment proceedings as well as before Ld. CIT(A). in other words the assessee should be given one more opportunity to submit a detailed explanation to AO. Ld. AR, therefore, made twin prayers i.e. the



delay in filing of appeal be condoned and this case ought to be remanded to AO for adjudication afresh after hearing assessee:

Ld. DR for Revenue did not have any objection to the prayer of Ld. AR. However ask for levy of post He, however, requested that the assessee must be directed to represent his case appropriately before AO and do not seek unnecessary adjournments.

4. We have considered the submissions made by Ld. AR on behalf of assesseees and in absence of any contrary fact or material on record, the assessee is not found to have a "sufficient cause" for delay in filing present appeal as narrated above in foregoing para. 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. That in this case the assessee was not appears to be vigilant in pursuing the appeal as well as assessment proceedings. We are not convince with this submission made by the AR therefore, in the interest of justice we imposed a cost of Rs. 2000/- for each assessment year on the assessee and the same is to be deposited with the Prime Minister relief fund within 10 days from the receipt of the order and the receipt is to be deposited in the Registre of this Tribunal. At the same time, as agreed by both sides and also having regard to the principle of natural justice and fair play, we deem it fit to give one more opportunity to assessee so that the assessee can represent his case before AO for a proper adjudication. Accordingly, we remand this matter back to the file of AO for a fresh adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier order in any manner. The assessee is also directed to ensure participation in the hearings as may be fixed by AO and do not seek



unnecessary adjournments failing which the AO shall be at liberty to pass appropriate order in accordance with law.

5. Resultantly, this appeal is allowed for statistical purpose.

Order is pronounced in the open court on 04 /11/2025.

Sd/-

(Dr. Arjun Lal Saini)
Accountant Member

Sd/-

(Dinesh Mohan Sinha)
Judicial Member

राजकोट/Rajkot

दिनांक/ Date: 04/11/2025

Copy of the order forwarded to :

- The assessee
- The Respondent
- CIT
- The CIT(A)
- DR, ITAT, RAJKOT
- Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot