

IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.21/SRT/2025

Assessment Year: 2020-21

(Hybrid hearing)

Shri Hargovind Ishwarbhai Patel 5/725, Bhavaniwad Haripura, Surat-395 003	बनाम/ Vs.	Dy. Commissioner of Income-tax, Central Circle-2, Surat, Income Tax Office, 505, Aayakar Bhawan, Majura Gate, Surat-395 001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: ABBPP 0770 C		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से /Appellant by	Shri Sapnesh R Sheth, Advocate
राजस्व की ओर से /Respondent by	Shri Ajay Uke, Sr-DR
सुनवाई की तारीख/Date of Hearing	12/08/2025
उद्घोषणा की तारीख/Date of Pronouncement	10/11/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from order passed under section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 21.12.2023 by the Commissioner of Income-tax(Appeals)-4, Surat [in short, "CIT(A)"] for assessment year (AY) 2020-21, which in turn assessment order passed by Assessing Officer (in short, "AO") u/s 143(3) of the Act on 29.09.2021.

2. The ground of appeal raised by the assessee is as under:

1. On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in passing ex-parte order without providing reasonable opportunity of hearing to assessee.

2. *On the facts and circumstances of the case as well as law on the subject, the learned Commissioner of Income Tax (Appeals) has erred in confirming the action of Assessing Officer in making addition of Rs.5,00,000/- unexplained cash credit u/s 68 of the I.T. Act.*

3. *It is therefore prayed that above addition made by Assessing Officer and confirmed by Commissioner of Income-tax (Appeals) may please be deleted.*

4. *Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal."*

3. The appeal filed by the assessee is barred by 314 days in terms of provisions of section 253(3) of the Act. The assessee has filed an affidavit explaining reasons for the delay. It has been stated that the assessee was unaware of the passing of the order by the CIT(A) since his registered e-mail and mobile number on the income tax portal belonged to his former consultant. Due to non updation of details, the assessee did not receive any intimation or notice from the office of the CIT(A) and therefore, could not pursue his appeal timely. The Ld. AR of the assessee submitted that the delay was neither intentional nor deliberate and there was no *mala fide* intention on assessee's part in not filing the appeal within the stipulated time limit. He requested that in the interest of justice; the delay may be condoned and the appeal may be admitted for hearing. Ld. AR relied on the decision given by Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. MST, Katiji & Ors. (167 ITR 471) (SC) and on the decision given by Hon'ble Gujarat High Court in the case of Dinesh Nagindas Shah vs. CIT (273 ITR 229) (Guj.).

4. On the other hand, Ld.Sr.-DR for the revenue did not have any objection, if the delay is condoned.

5. 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.

6. Brief facts of the case are that during the year under consideration, the assessee worked as commission agent and had shown commission income and income from partnership firm. The assessee filed his original return of income u/s.139(1) of the Act for AY 2020-21 on 09.12.2020 declaring total income at Rs.5,70,470/-. A search and seizure action u/s.132 of the Act was conducted in the case of M/s. Patel Ambalal Hargovandas & Co. on 12.04.2019. The assessee is one of the partners of the firm who was covered in the search action. At the time of search, various documents of incriminating nature were found and seized. Subsequently, case of the assessee was selected for scrutiny and notice u/s 143(2) of the Act was issued to the assessee for the assessment year under consideration.

6.1 During the assessment proceedings, notices u/s 142(1) of the Act wherein assessee was requested to furnish details/documents on relevant issues/points. On perusal of submissions made by the assessee, it was seen that during the year, assessee had accepted new unsecured loan of

Rs.5,00,000/- from A D Films. However, assessee failed to establish the identity and creditworthiness of the lenders and genuineness of the transaction. Accordingly, AO treated the amount of Rs.5,00,000/- as non-genuine and added the same to the total income of the assessee u/s 68 of the Act as unexplained cash credit. The assessment order was passed u/s.143(3) of the Act on 29.09.2021 determining total income of the assessee at Rs.10,70,470/-.

7. Aggrieved by the assessment order, assessee preferred appeal before CIT(A). During appellate proceedings, CIT(A) provided 5 opportunities of hearing vide notices u/s.250 of the Act, to the assessee to furnish relevant documents in support of various grounds of appeal raised by him. However, assessee failed to file any reply any supporting documents in their compliance. In view of the assessee's failure to bring any material on record to establish the identity and creditworthiness of the lenders and genuineness of the transaction, CIT(A) did not find any infirmity in the order passed by the AO and accordingly, upheld the addition of Rs.5,00,000/- made u/s 68 of the Act. The CIT(A) dismissed the appeal of the assessee.

8. Further aggrieved by the order of CIT(A), assessee filed present appeal before the Tribunal. The Ld. AR of the assessee submitted that the assessee had not received any notice from the CIT(A) due to non updation of his communication details on the income tax portal. Consequently, the assessee could not represent his case before the First Appellate Authority. The Ld. AR submitted the paper containing ledger account of H.G. Pictures and AD Films in

the books of the assessee, copy of bank statement of assessee evidencing receipt in bank account, ledger confirmation received from H.G. Pictures and AD Films, copy of bank statement of A D Films, ITR acknowledgement, computation of income and balance sheet of assessee, copy of ITR acknowledgement and computation of income of Shri Hareshbhai Govindbhai Patel (Prop. Of H.G. Pictures and A D Films) for the AY 2020-21, etc. The Ld. AR stated that unsecured loan of Rs.5,00,000/- was taken by the assessee from AD Films through banking channel on 04.02.2020. It was contended that all these evidences established the identity and creditworthiness of the lenders and genuineness of the transaction. Since the CIT(A) decided the matter *ex parte* without these details, the assessee requested that the order be set aside and the matter be restored to the file of the CIT(A) for fresh adjudication after granting reasonable opportunity of hearing.

9. On the other hand, Ld. Sr.-DR for the revenue relied upon the order of the lower authorities and requested to uphold the order of CIT(A).

10. We have heard both sides and perused the materials placed on record. It is evident from the impugned order that the CIT(A) dismissed the appeal *ex parte* for non-compliance without examining the merits of the case. The principles of natural justice demand that a party should be granted effective opportunity to present its case before an adverse order is passed. In the instant case, the assessee has brought on record plausible reasons for non-compliance before the CIT(A). The claim that the notices were sent to an

outdated email address and mobile number belonging to a previous consultant has not been rebutted by the revenue.

10.1 Moreover, the evidences now filed before us such as confirmations, bank statements and income-tax returns of the lenders were not considered by the CIT(A). In such circumstances, we are of the considered opinion that the interest of substantial justice would be served if the matter is restored to the file of the CIT(A) for fresh adjudication.

10.2 In view of the foregoing discussion and in the interest of natural justice, we set aside the order of CIT(A) and restore the matter to his file with the direction to adjudicate the appeal afresh after affording reasonable and effective opportunities of being heard to the assessee. The assessee is also directed to appear before the CIT(A) and cooperate in the proceedings without seeking unnecessary adjournments. We make it clear that we have not expressed any opinion on the merits of the addition made u/s 68 of the Act and all issues are left open for fresh consideration.

10.3 However, considering that the delay of 314 days in filing the present appeal and that non-compliance before the CIT(A) occurred due to the assessee's failure to update his registered e-mail address and mobile number on the income-tax e-filing portal, which reflects negligence and lackadaisical attitude on his part, we deem it appropriate to impose a nominal cost. Accordingly, the assessee is directed to pay cost of Rs.5,000/- (Rupees five

thousand only), to be credited to the Prime Minister's National Relief Fund (PMNRF) within 30 days from the date of receipt of this order. The assessee shall furnish proof of such payment before the CIT(A) at the time of the fresh hearing.

11. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34 of ITAT Rules, 1963 on 10/11/2025 in the open court.

**Sd/-**  
**(SANJAY GARG )**  
**न्यायिक सदस्य/JUDICIAL MEMBER**  
**सूरत /Surat**  
**दिनांक/ Date: 10/11/2025**  
**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**