



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।
**IN THE INCOME TAX APPELLATE TRIBUNAL, “SMC”
RAJKOT BENCH, RAJKOT**

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 408/RJT/2025
(निर्धारणवर्ष/Assessment Year: (2017-18))

Hothi Samat Keshwala At Visavada, via Bokhira Porbandar, Porbandar – 360575	Vs.	ITO, wd – 2(4), Income Tax office, NH-8E, Porbandar Road, Porbandar-360575
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BUPPK0380P		
(अपीलार्थी/Assessee)		(प्रत्यर्थी/Respondent)

Assessee by : Shri Chetan Agarwal, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing : 02/09/2025
Date of Pronouncement : 25/11/2025

ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to Assessment Year 2017-18, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 05.08.2024, which in turn arises out of an order passed by the Assessing Officer vide order 21.10.2019.

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

“1. The Ld.CIT(A) erred in law as well as on fact in upholding an addition of Rs.18,00,000/- made by AO being cash deposited in bank account.”



3. Brief facts qua the issue are that, the appeal filed by the assessee is barred by limitation by 252 days. The assessee has moved a petition for condonation of delay, requesting the Bench to condone of delay. Learned Counsel for the assessee, explained the reasons for delay, stating that Id. CIT(A) has passed an order on 05-08-2024, hence appeal before Hon`ble ITAT is required to be filed on or before 04-10-2024. However, appeal before Hon`ble ITAT was filed on 14-06-2025, resulting into delay of 252 days. The said delay occurred due to fact that the assessee was not aware of order passed by Id.CIT(A) which was served on income tax portal, since the assessee is not visiting portal on regular basis. On receipt of telephonic call from Department for payment of demand, the assessee becomes aware of passing order by CIT(A). Besides, the advocate appointed by the assessee, did not inform the assessee about passing of the order by learned CIT(A), therefore, because of the mistake committed by the advocate of the assessee, the assessee should not be penalised, and the delay should be condoned in the interest of the Justice.

4. However, Learned DR for the revenue argued that while deciding the prayer for condonation of delay, the court/appellate authority cannot ignore or give a go-by to the basic principle that the burden to prove the existence of sufficient cause is always on the assessee, and there is no presumption that the delay occasioned in the filing of the appeal is always bona fide and the condonation of delay is not the matter of right. In the instant case, the assessee failed to prove the sufficient cause, therefore, delay should not be condoned.

5. I have heard both the parties on this preliminary issue. I note that the legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963, in order to enable the Courts to do



substantial justice to parties by disposing of matters on 'merits'. In Ramlal, & Chhotelal v. Rewa Coalfields Ltd. [(1962) 2 SCR 762], it was laid down that in showing sufficient cause to condone the delay, it is not necessary that the applicant has to explain whole of the period between the date of the judgment till the date of filing the appeal. It is sufficient that the applicant would explain the delay caused by the period between the last of the dates of limitation and the date on which the appeal/application is actually filed. What constitute sufficient cause cannot be laid down by hard and fast rules. The expression "sufficient cause" should receive a liberal construction. In this appeal, I find that assessee acted with reasonable diligence in prosecuting the appeal. I also note that in assessee's case, advocate of the assessee has committed the mistake, as he did not inform the status of the appeal and passing the order by learned CIT(A). Therefore, I note that because of the mistake committed by the advocate of the assessee, the assessee should not be penalised. In Concord of India Insurance Co. Ltd. v. Nirmala Devi &Ors. [(1979) 3 SCR 694] which is a case of negligence of the counsel which misled a litigant into delayed pursuit of his remedy the default in delay was condoned. Therefore, considering these facts, I condone the delay.

6. Succinct facts are that in assessee's case, a notice u/s 142(1) of the Act, was issued by the Income Tax Officer Ward-2(3), Porbandar, on 13.02.2018, in which the assessee was requested to furnish return of income for A.Y. 2017-18 on or before 15.03.2018. The assessee had not furnished return of income within stipulated time. As per information available on ITS data it was noticed by the assessing officer that the assessee made cash deposit of Rs. 18,23,500/-, during demonetization period and also has not furnished return of income for A.Y. 2017-18. Accordingly, proceedings u/s 144(1)(b) of



the Act, was initiated against the assessee on ITBA on dated 21.06.2019. Meanwhile a notice u/s 133(6) was issued to the State Bank of India and the Dena bank and copy of bank statement gathered from the bank. After analysis of data gathered from the bank and available with the department, a show cause notice was issued to the assessee on 24.06.2019, in which the assessee was requested to furnish details submission explanation to establish the source of cash deposited during demonetization period. In response, the assessee submitted its reply along with documentary evidences, before the assessing officer. The assessee has made submission at online portal on 15.07.2019 also. The assessee submitted its reply before the assessing officer, stating that amount was deposited in the bank account, out of past savings, proceeds received from maturity of fixed deposit, loan amount taken from others, agricultural income, the amount re-deposited in the bank account, out of amount withdrawn earlier from Bank for domestic use etc.

7. However, the assessing officer rejected the above contention of the assessee and observed that the source of income from which cash deposited by the assessee during demonetization period remains unexplained. Since the assessee has deposited Rs. 23,500/-, on 10.11.2016, the same was treated by the assessing officer, as the assessee's saving which was deposited during demonetization period and remaining cash deposits of Rs. 18,00,000/- (Rs. 18,23,500- Rs. 23,500) was treated as the assessee's unexplained money and taxed in the hand of the assessee u/s 69A of the I.T. Act.

8. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the Ld. CIT(A), who has dismissed the appeal of the assessee. The ld.CIT(A) noticed in the assessee's case that the assessee is



clearly the owner of money, that is, cash which had been deposited in his own bank accounts, and further the explanation offered by it regarding the nature and source of acquisition of such money was not found satisfactory by the NFAC(AO) in the given facts and circumstances of the case and therefore the said unexplained cash deposited in the bank accounts of the assessee is deemed to be the income of the assessee for the relevant financial year, hence the provisions of section 69A are attracted in the instant case.

9. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal.

10. The Learned Counsel for the assessee argued that during the proceedings before Ld. CIT(A), the assessee submitted additional evidences to prove his claim. The Ld. CIT(A) has sent these additional evidences to the file of the Assessing Officer to call a remand report. The remand report so submitted by the assessing officer is not adverse or against the assessee. That is, remand report submitted by the assessing officer, during the appellate proceedings, is in favour of the assessee. The Ld. Counsel further submitted that the assessee has explained the source of cash deposit, as the amount received from Shantilben Hothi Bhai and it was an agricultural loan to the tune of Rs. 3 lakh, agricultural loan from Hoti Samat of Rs. 8 lakh again received by the assessee on 24.05.2016 which is credited in Dena Bank Account and an amount of Rs. 8,92,439/- was received by the assessee on 07.09.2016 from Lakhubhai Lilabhai Godhan in the bank account maintained at State Bank of India. The Ld. Counsel also submitted that assessee has also submitted the details of the Fixed Deposit receipts on 13.05.2016 and 07.09.2016 whose details were again filed by the assessee, therefore, out of the Fixed Deposit maturity



amount, the assessee received the cash from the bank which was redeposited in the bank account during the demonetization period. Besides, assessee had past savings and agricultural income as a source to deposit the amount in the bank account. Therefore, considering all these facts, the addition made by the assessing officer may be deleted.

11. On the other hand, Ld. DR for the Revenue submitted that assessee has not submitted the entire evidences and documents like PAN No., loan confirmation, Income Tax Return, and Bank statement of the alleged loan givers, therefore, assessee has filed the part details only before the lower authorities, hence, addition made by the Assessing Officer should be sustained.

12. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. I note that the deposits made in the bank account are out of the defined sources, as the assessee took the agricultural loan from two persons. The assessee has also had fixed deposits in the bank account and on the maturity date the assessee received the cash amount out of fixed deposit, which were redeposited in the bank account during the demonetization period. Apart from these, the assessee had past savings which were explained to the lower authorities. From the bank statement it is clear that the source of withdrawal out of fixed deposit, is being clearly demonstrated that assessee has deposited the amount during the demonetization period which were received by the assessee out of the maturity amount of fixed deposits. The assessee has also submitted the bank



statement before the lower authorities to explain the entire withdrawal and the deposit during the demonetization period. Therefore, it cannot be said that assessee has not explained the money deposited in the demonetization period satisfactorily. Therefore, I find that assessee has submitted all the possible evidences to substantiate its cash deposit in the bank account during the demonetization period. However, I find that assessee was not able to prove all its personal expense and drawings which was utilized by the assessee, out of cash withdrawals from bank and out of fixed deposit amount received by the assessee from the bank. I, therefore, take into account all these peculiar facts, and note that assessee has not been able to explain the cash deposit in the bank account properly. Therefore, considering the above facts and circumstances in my view the ends of justice would be met, if a net profit rate of 10% is adopted on cash deposit in the bank account. Therefore, the assessing officer is directed to make the disallowance @ 10% of Rs. 18,00,000/- which comes to Rs.1,80,000/- (10% of Rs. 18,00,000/-). Hence, I direct the Assessing Officer to make the addition in the hands of the assessee at Rs. 1,80,000/- by applying the normal rate of income tax. It is also made clear that instant adjudication, shall not be treated as a precedent in any preceding or succeeding year.

13. In the result, the appeal filed by the assessee is partly allowed in above terms.

Order is pronounced in the open court on 25/11/2025.

Sd/-
(Dr. Arjun Lal Saini)
Accountant Member

राजकोट/Rajkot

//True Copy//

दिनांक/ Date: 25/11/2025

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