

**IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, SURAT**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**I.T.A. No. 75/SRT/2025
Assessment Year: 2016-17**

Jayvirsinh Mahendrasinh Raj 1, Vantapanchayat, Faliya, at SaykhaVagra, Dist. Bharuch PAN – APSPR8909N	Vs	ITO, Ward 1(1) Railway Stn Road, Near, Indian Oil, Old Tow, Bharuch Gujrat
(Appellant)		(Respondent)

Assessee by	Shri Mayur Thakkar, CA
Revenue by	Ms. Namita Patel, Sr. DR

Date of Hearing	09.10.2025
Date of Pronouncement	25.11.2025

ORDER

Per: SHRI. SANDEEP GOSAIN, J.M.:

The present appeal has been filed by the assessee challenging the impugned order dt. 20.12.2024 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2016-17.

2. From the records, we noticed that the assessee was ex-parte before the AO and Ld. CIT(A) dismissed the appeal as the same was filed beyond the period of limitation.

3. We have heard the counsels for both the parties, perused the material placed on record and the orders passed by the revenue authorities. From the records, we noticed that assessee has categorically submitted that he was not aware about the tax proceeding and the email id registered on the e-filing portal was of his previous tax consultant and thus assessee 'explained' the circumstance because of which he could not file the appeal within time before the Ld. CIT(A).

3. Considering the entire factual position as explained before us and also keeping in view, the principles laid down by Hon'ble Supreme Court in the case of ***Land Acquisition Collector Vs. Mst. Katiji & Ors., [1987] AIR 1353 (SC)***, wherein it has been held that where substantial justice is pitted against technicalities of non-deliberated delay, then in that eventuality substantial justice is to be preferred. In our view the principles of advancing substantial justice is of prime importance. Hence considering the explanation put forth by the Assessee by justifiably and properly explaining the delay which occurred in filing the appeal and construing the expression "sufficient cause" liberally we are inclined to condone the delay in filing the appeal before Ld. CIT(A). Therefore we are inclined to condone the delay in filing the appeal before CIT(A).

4. Since we have condoned the delay in filing the appeal before Ld. CIT(A). From the records we also noticed that

assessee was ex-parte before AO as well therefore we are of the view that one more opportunity be given to the assessee to represent his case before AO. Therefore considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of AO for deciding the appeal afresh by providing one more opportunity to the assessee

5. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the AO independently in accordance with law.

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

Order pronounced in the open court on 25/11/2025 Sd/-

Sd/-
(OM PRAKASH KANT)
(ACCOUNTANT MEMBER)

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Surat:
Dated: 25/11/2025

KRK, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Surat