

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

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

**I.T.A. No.435/SRT/2025
Assessment Year: 2012-13**

Meena Vijay Desai 207, Laurel Ridge Way Greenwood, SC 29649 (USA) PAN – AYQPD7608H	Vs	ITO, Ward – 3 Navsari
(Appellant)		(Respondent)

Assessee by	Shree Sulabh Padshah, AR
Revenue by	Shri J.K Chandnani, 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. 16.05.2023 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 2012-13.

2. At the very outset, we noticed that there is delay of 621 days in filing present appeal and in this regard an application for seeking condonation of delay has been filed by the assessee, wherein it has been mentioned as under:

01. 1. That my case was selected for scrutiny assessment for Asst Year 2012-13. The Ld. Assessing Officer has passed an order dated 12-12-2019 making an addition of Rs 15,47,880/-

2. That the above Assessment order passed was challenged before Commissioner of Income Tax (Appeals) vide appeal filed on 17-02-2020. The Ld. CIT(A) has vide his order dated 16-05-2023 dismissed appeal passing an Ex-parte order due to non-submission of documents or evidences.

3. Form 35 i.e. That I have specifically provided email address in mksuthar@gmail.com for all communications and particularly for notices to be sent on email.

4. That from the records, it appears that the CIT Appeal has not issued notices on provided email id i.e. rnksuthar1@gmail.com, but were issued on wrong email id i.e. hoitaxalb@gmail.com and thus I have not received any of the notices issued.

5. That I confirm on oath that I could not complied or filed any written submission during the course of appellate proceeding due to reason that Ld CIT Appeal has issued all notices on different email id. Similarly I have not received order passed by CIT Appeal u/s 250 of the Act on given email address.

6. That I further confirm that the delay in filing of appeal before Hon'ble ITAT is also due to the reasons that I have not received the order passed by CIT Appeal, as I was completely unaware about issuance of notices and passing of order in my case.

7. That I came to know about passing of ex-parte order only in the month of March. 2025 at the time of random checking by my consultant and thus I have filed an appeal before Hon'ble Tribunal Immediately in April, 2025.

3. Considering the entire factual position as explained before me 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-deliberate delay, then in that eventuality substantial justice is to be preferred. In our view the principals 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 the Tribunal.

4. From the records, we noticed that assessee was *ex-parte* before Ld. CIT(A). In this regard Ld. AR explained the circumstances before the bench that there was '*sufficient cause*' which prevented the assessee to represent properly before Ld. CIT(A). On the other hand DR relied upon the orders passed by the revenue authorities.

5. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that there was reasonable cause, because of which assessee could not put effective representation before Ld. CIT(A). Hence the Bench is of the view that one more opportunity be given to the assessee to represent his case before Ld. CIT(A). Therefore considering the overall circumstances of the present case, we deem it proper to restore the matter back to the file of Ld. CIT(A) for deciding the appeal afresh by providing one more opportunity to the assessee. The assessee shall not seek any adjournment on frivolous

grounds and shall remain cooperative during the course of proceedings.

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

7. 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/-
(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