



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

आयकर अपील सं./ITA Nos. 322 & 323/RJT/2025

(निर्धारण वर्ष/Assessment Year: (2013-14))

Anila Narendra Sanghani Plot No. E-69/70, Shreenathji Enterprise, GIDC Phase-3, Dared, Jamnagar-361 006	Vs.	Income Tax, Ward-1(3), Jamnagar, Aayakar Bhavan, Jamnagar-361 006
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BDUPS 0674 L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : Shri Chetan Agarwal, Ld. AR
Respondent by : Shri Sanjay Punglia, CIT-DR

Date of Hearing : 08/10/2025
Date of Pronouncement : 16/12/2025

ORDER

Per, Dr. Arjun Lal Saini, AM:

The present two appeals have been filed by the assessee, against the separate orders passed by the Learned Commissioner of Income Tax (Appeal), National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 17.05.2025, arose out in the matter of assessment order passed u/s. 147 r.w.s. 144 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") and a penalty order passed by the assessing officer under section 271(1) (c) of the Act, relevant to the Assessment Year 2013-14.



2. At the outset, the Ld. Counsel for the assessee submitted that Ld.CIT(A) has not condoned the delay of 634 days in case of assessee's quantum appeal in ITA No.322/RJT/2025, in filing the appeal before the Ld.CIT(A). The Ld.CIT(A) has also not condoned the delay of 477 days in case of assessee's penalty appeal in ITA No.323/RJT/2025, in filing the appeal before the Ld.CIT(A). The learned counsel submitted that assessee has explained the sufficient cause for delay in filing these two appeals, despite of the sufficient cause explained by assessee, ld.CIT(A) did not condone the delay and dismissed both the appeals of the assessee on account of being delay in filing the appeals. The Ld. Counsel submitted that the during the assessment proceedings notices were not served on the assessee, therefore, the assessing officer has passed an ex-parte order u/s. 144 of the Income Tax Act, 1961. The assessment order was delivered on the assessee's Chartered Accountant, who did not inform the assessee, therefore, the quantum appeal in ITA No.322/RJT/2025, was delayed by 634 days before the Ld.CIT(A). Similarly, there was delay of 477 days in case of assessee's penalty appeal in ITA No.323/RJT/2025, in filing the appeal before the Ld.CIT(A). The reasons for delay were same in both the appeals. Learned Counsel for the assessee also submitted affidavit for both the appeals, citing the reasons for delay and argued that assessee should not be penalized because of the mistake committed by his previous advocate/CA.

3. On the other hand, the Ld. CIT-DR for the revenue pointed out that the assessee did not submit any authorized letter of the CA before the Ld.CIT(A) and nor filed affidavit, therefore, delay should not be condoned, and appeal of the assessee should be dismissed on account of condonation of delay.



4. We have gone through the petition for condonation of delay, and the sufficient cause explained by the assessee, in the petition for condonation of delay in both these appeals. The learned Counsel for the assessee adverted our attention to the reasons for condonation of delay before Id.CIT(A) in both these appeals, and urged for a benign view and sought condonation of delay of 634 days in quantum appeal and 477 days in penalty appeal. On the other hand, Id. CIT-DR for the revenue, opposed the prayer of the assessee for condonation of delay. We note that because of the mistake committed by the advocate of the assessee, the assessee should not be penalized. A perusal of the reasons and sufficient cause explained by the Id. Counsel for the assessee, gives us an impression of existence of mitigating circumstances to enable us to exercise our discretion in favour of the assessee. Accordingly, the respective delay of 634 days in quantum appeal and 477 days in penalty appeal, are condoned before Id. CIT(A).

5. On merit, Id.Counsel for the assessee submitted that the quantum appeal of assessee in ITA No.322/RJT/2025, was *ex-parte*, before assessing officer, and now the assessee wants to submit some additional documents and evidences before the assessing officer to prove his claim on merit. Therefore, the quantum of the assessee may be restored back to the file of the assessing officer for fresh adjudication. When the quantum appeal is restored back to the file of the assessing officer, then penalty appeal in ITA No.323/RJT/2025, does not have any leg to stand, however, said penalty appeal may also be restored back to the file of the assessing officer. On the other hand, Id.CIT- DR for the revenue did not have any objection, if the matter is restored back to the file of the assessing officer for fresh adjudication.



6. 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. We note that in the assessee's case under consideration, the assessment was carried out u/s 144 of the Act and the impugned order passed by the Id. CIT(A), is an *ex parte* order and non-speaking order, therefore, we do not wish to make any comments on the merits of the grounds raised by the assessee. Considering the above facts, we note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the Id. CIT(A) as well as before the assessing officer. We note that the Id. CIT(A) did not discuss the assessee's case on merits.

7. We note that order passed by NFAC/Ld. CIT(A) is an *ex parte* order without considering the assessee's submission on merit. We also note that order passed by the Assessing Officer u/s 144 of the Act, therefore, Assessing Officer has not examined the basic facts of the assessee's case, hence we are of the view that matter may be remitted back to the file of the Assessing Officer for *de novo* assessment. We note that it is settled law that principles of natural justice and fair play require that the affected party is granted sufficient opportunity of being heard to contest his case. Accordingly, we restore the issue back to the file of the assessing officer for adjudication the issue afresh, after providing due opportunity of hearing to the assessee in accordance with law. Needless to mention, the assessee shall cooperate in the proceedings before the lower authorities for disposal of these cases. For statistical purposes, the quantum appeal of the assessee in ITA No.322/RJT/2025, is treated as allowed.



8. Now we shall take penalty appeal of assessee in ITA No.323/RJT/2025. Considering the fact that additions made in the quantum assessment has been restored back to the file of Assessing Officer, therefore at this stage, the penalty levied by Assessing Officer u/s 271(1)(c) of the Act, vide order dated 15.09.2022 will not survive. Hence, the appeal of assessee is allowed, however, the Assessing Officer shall be at liberty to initiate fresh penalty, if so, require at the time of passing the *de novo* assessment order.

9. In the result, both the appeals of the assessee are allowed for statistical purposes

Order is pronounced in the open court on 16/12/2025.

Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER

Sd/-
(DR.ARJUN LAL SAINI)
ACCOUNTANT MEMBER

राजकोट/Rajkot

दिनांक/ Date: 16/12/2025

Copy of the order forwarded to :

The assessee

The Respondent

CIT

The CIT(A)

DR, ITAT, RAJKOT

Guard File

// True Copy //

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot