



IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.159/RJT/2025

Assessment Year: (2017-18)

Vaghani Brothers Bus Stand Road, Nr. Buu Stand, Dhoraji (Guj) - 360410	Vs.	The ITO, Ward – 2(1)(1), Rajkot Aayakar Bhavan, Race Course Ring Road, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABFV5533C		
(Appellant)		(Respondent)

Appellant by : Shri Brijesh Parekh, Ld. A.R.
Respondent by : Shri Abhimanyu Singh Yadav. Ld. Sr. DR
Date of Hearing : 19/11/2025
Date of Pronouncement : 17/12/2025

आदेश/ O R D E R

PER DINESH MOHAN SINHA, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) – 2017-18, is directed against the order passed by the National Faceless Appeal Centre [(in short “NFAC/Ld. CIT(A)”] vide order dated 15.02.2024, which in turn assessment order passed by Income Tax Department/Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short “the Act”), vide order dated 21.12.2019.

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

1] The grounds raised in this appeal are without prejudice to one another.

2] The Ld.A.O. erred in making addition of Rs.11500000/- and the Ld.CIT[A] erred in retaining the same. On the facts and circumstances of the case it is submitted that the addition made deserves to be deleted.



3] It is respectfully submitted that the appellant had no senior consultant or chartered accountant that the addition has been retained in the first appeal as the submission in this regard could not be filed. However, given the fact that the deposit of cash is fully explainable, the additional evidences as may be filed in the course of hearing of this appeal, may kindly be admitted as such evidences in the interest of justice.

4] The date of the appeal order is 15/02/2024 and as such this is the case of the belated appeal for which separate condonation application will be filed by the appellant. The same may sympathetically be considered.

5] Your appellant craves leave to add, alter, amend or withdraw any of the grounds stated here above.

3. At the outset, that the appeal filed late by 309 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. That the relevant part of the application for delay, is as under:

“3. The assessee filed a 1 appeal before the Ld.CIT (Appeals), NFAC, Delhi, however since the assessee was not conversant with the intricacies of tax laws and the internet, the necessary explanation to the satisfaction of the Ld.CIT (Appeals) could not be furnished; as a result the 1st appeal of the assessee was dismissed. This appeal order is dated 15/02/2024. It is respectfully submitted that the partners of the firm had no knowledge of computer and internet and the appellant had no senior consultant or chartered accountant, as a result of which the notices of the CIT (Appeals), NFAC, remained unattended. It is submitted that the computer is handled by part time employee Shri Umang Ramesh Rakholiya who is 10th fail who was doing part time job of delivery of the goods and some computer work. He did not understand what the order pertained to as a result of which the order of the CIT (Appeals) dtd. 15/02/2024 remained without any action taken thereon. He had not informed any of the partners about the same.

Submitted with utmost respect towards the Honorable Bench.”

4. During the course of hearing, the Ld. AR submitted that the partners of the firm had no knowledge of computer and internet and the appellant had no senior consultant or chartered accountant, as a result of which the notices of the CIT (Appeals), NFAC, remained unattended. Therefore, the assessee did not have any information about fixation of hearings or about passing of impugned orders. Subsequently, that the assessee came to know of the impugned order having been passed ex-parte by CIT(A) end of February 2025. Immediately thereafter, the assessee sought legal advice from professionals and finally arranged to file this appeal with delay. Ld.



AR very humbly submitted that there is no deliberate lethargy, negligence, mala fide intention or ulterior motive of assessee in making delay and the assessee does not stand to derive any benefit because of delay. He further submitted that the reason of delay is as explained in the condonation of delay-application/affidavit. Ld. AR further submitted that the AO has made addition in respect of cash credit in bank a/c during demonetization period the assessee has sufficient documents to explain the source of deposits to the AO. However, unfortunately, the assessee could not file proper particulars before the AO and for this reason, the AO treated entire deposits as unexplained and made addition. But the assessee case is meritorious and the assessee should be given one more opportunity to submit a detailed explanation to the AO. Ld. AR, therefore, made twin prayers i.e. the delay in filing of appeal be condoned and this case ought to be remanded to CIT(A) for adjudication after hearing the assessee.

5. The Ld. DR for Revenue did not have any objection to the prayer of Ld. AR. He, however, requested that the assessee must be directed to represent his case appropriately before AO and do not seek unnecessary adjournments.

6. We have considered the submissions made by Ld. AR on behalf of the assessee and in the absence of any contrary fact or material on record, the assessee is found to have a "sufficient cause" for delay in filing present appeal as stated above in foregoing para. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time, if there is a "sufficient cause" for not presenting the appeal within prescribed time. It is also a settled position by Hon'ble Supreme Court in Collector, Land Acquisition Vs Mst. Katiji and others 1987 AIR 1353, 1987 2 SCC 387 that whenever substantial justice and technical



considerations are opposed to each other, the cause of substantial justice must be preferred by adopting a justice-oriented approach. Thus, taking into account the provision of section 253(5) and the decision of Hon'ble Supreme Court, we take a judicious view and condone delay in this appeal. At the same time, as agreed by both sides and also having regard to the principle of natural justice and fair play, we deem it fit to give one more opportunity to assessee so that the assessee can represent his case before the Ld. CIT(A) for a proper adjudication. Accordingly, we remand this matter back to the file of Ld. CIT(A) for a fresh adjudication after giving opportunity of hearing to the assessee, uninfluenced by his earlier order in any manner. The assessee is also directed to ensure participation in the hearings as may be fixed by the Ld. CIT(A) and do not seek unnecessary adjournments failing which the Ld. CIT(A) shall be at liberty to pass appropriate order in accordance with law.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 17/12/2025

Sd/-

(Dr. Arjun Lal Saini)
Accountant Member

Rajkot

दिनांक/ Date: 17/12/2025

Sd/-

(Dinesh Mohan Sinha)
Judicial Member

Copy of the Order forwarded to

- 1.The Assessee
- 2.The Respondent
- 3.The CIT(A)
- 4.Pr. CIT
- 5.DR/AR, ITAT, Rajkot
- 6.Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot