



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।
IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 957, 958 & 959/RJT/2025

(निर्धारणवर्ष/Assessment Year: (2021-22))

Bhagu Bhurabhai Varchand H-21/Near Temple Dagara, Dagala/Dagara Madhapar S.O Madhapar 370020, Gujarat India	Vs.	The Income Tax Officer, Ward-3, Gdham Aayakar Bhavan, Near Leva Patel Hospital, Mundra, Bhuj Gujarat 370001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: BCPPV8921D		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : Shri Samir Bhuptani, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 13/01/2026
Date of Pronouncement : 13/01/2026

ORDER

Per, Dr. Arjun Lal Saini, AM:

The present three appeals have been filed by the Assessee, against the separate orders passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] arising in the matter of assessment order passed u/s. 144 r.w.s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2021-22.



2. At the outset itself, the Id. Counsel for the assessee assailed the impugned order by contending that the assessee could not represent his case before Ld. CIT(A) and the order being an *ex-parte* order, stood vitiated on account of violation of principle of natural justice. The Ld. Counsel for the assessee submitted that notices were delivered on the wrong email-id, therefore, the assessee could not represent his case before the Ld. CIT(A). The Ld. Counsel also submitted that when during the proceedings were going on before the lower authorities, tax consultant of the assessee did not co-operate with the assessee, therefore, the assessee could not file the required documents and details before the lower authorities. Now, assessee is ready with all required details and documents, which are to be submitted before the assessing officer, therefore matter may be resorted back to the file of the assessing officer for fresh adjudication.

3. On the other hand, the Id. DR for the Revenue submitted that assessee was negligent during the assessment proceedings. The assessee did not submit required details and documents, therefore, if the Bench wants to remit the matter back to the file of the assessing officer, then a cost of Rs. 3,000/- may be imposed on the assessee as the assessee has wasted time and resources of the lower authorities.

4. I 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 in the assessee's case under consideration, the assessment was carried out u/s 147 r.w.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, I do not wish to make any comments on the merits of the grounds raised by the assessee.

5. Considering the above facts, I note that assessee has not given sufficient opportunity of being heard and could not plead his case successfully before the Id. CIT(A). I note that the Id. CIT(A) did not discuss the assessee's case on merits based on the material available before him hence it is a violation of principle of natural justice. I 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. However, on account of non-compliance attitude of the assessee, I impose a cost of Rs. 3,000/- on the assessee which should be deposited in the Prime Minister National Relief Fund. Therefore, without delving much deeper into the merits of the case, in the interest of justice, I restore the matter back to the file of assessing officer for *de novo* adjudication and pass a speaking order after affording sufficient opportunity of being heard to the assessee, who in turn, is also directed to contest his stand forthwith. Therefore, I deem it fit and proper to set aside the order of the Id. CIT(A) and remit the matter back to the file of the Ld. assessing officer to adjudicate the issue afresh on merits.

6. I note that appeal of the assessee in ITA No. 958/Rjt/2025 pertains to penalty u/s. 271 AAC (1) of the Act, and assessee's appeal in ITA No. 959/Rjt/2025 pertains to penalty u/s. 272A(1)(d) of the Act. Since, the assessee's quantum appeal in ITA No. 957/Rjt/2025 is remitted back to the file of AO therefore, there penalties do not have any leg to stand.

7. I note that Ld. CIT(A) did note condone the delay in filing there three appeals before him. The Id. Counsel for the assessee adverted my attention to the respective



appeals and affidavit filed in this regard by way of statements, citing reasons for condonation of delay and urged for a benign view and sought condonation of delay in their three appeals which belong to the same assessee. A perusal of the sufficient cause explained, given me an impression of existence of mitigating circumstances to enable me to exercise my discretion in favour of the assessee. Accordingly, the delays are condoned in these three appeals and matter should be restored back to the file of the assessing officer for fresh adjudication.

For the reasons given above, I am of the view that the order of the CIT(A) on this issue requires to be set aside and the issue needs to be looked into afresh by the assessing officer in the light of the observations as set out above. I hold and direct accordingly. The assessing officer will afford opportunity of being heard to the Assessee before deciding the issue. The Assessee will also be at liberty to let in further evidence to substantiate its case. For statistical purpose, the appeal of the assessee is treated as allowed.

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

Order is pronounced in the open court on 13/01/2026.

Sd/-
(DR. A. L. SAINI)
ACCOUNTANT MEMBER

राजकोट/Rajkot

दिनांक/ Date: 13/01/2026

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