



आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।

**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH (SMC), RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.874/RJT/2025
निर्धारण वर्ष / Assessment Year: (2019-20)

Jignesh Narendrabhai Mandaliya Navlakhi Chamber Para Bazar Road, Raiya Naka, Rajkot-360 001	बनाम/Vs.	Income Tax Officer, Ward- 2(1)(1), Rajkot, Aaykar Bhawan, Race Course Ring Road, Rajkot-360 001
स्थायी लेखासं./जी आइ आर सं./PAN/GIR No.: AUWPM6485H		
(Appellant)		(Respondent)

Appellant by : Shri Brijesh Parekh, AR
Respondent by : Shri Gopi Nath Chaubey, Sr. DR
Date of Hearing : 24/12/2025
Date of Pronouncement : 16/01/2026

आदेश / ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned appeal filed by the assessee, pertaining to assessment year 2019-20, is directed against the order passed under section 250 of the Income Tax Act, 1961 (in short “the Act”) by National Faceless Appeal Centre (NFAC), Delhi /Commissioner of Income-tax(Appeals) [in short “Ld.CIT(A)”] dated 27.06.2025, which in turn arising out of an assessment order passed u/s 147 r.w.s 144B of the Act on 18.01.2024.

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

“1. The Ld. CIT(A) erred in law as well as on facts in upholding the addition of Rs.7,50,000/-. The same needs cancellation.



2. *The Ld. CIT(A) erred in law as well as on facts uphold and not giving due deductions while completing assessment by Ld. AO. The same needs to be allowed.*
3. *The Ld. CIT(A) erred in law as well as on facts uphold and not giving benefit of exemption while completing assessment by Ld. AO.*
4. *The Ld. CIT(A) erred in law as well as on facts in upholding an addition of Rs.7,50,000/- without giving proper opportunity and adequate considering the matter and irrelevant consideration.*
5. *The Ld. CIT(A) erred in law as well as on facts that order u/s 250 passed an ex parte.*
6. *Without prejudice, no reasonable opportunity has been given by the Ld. AO while completing assessment. The same needs annulment.*
7. *Without prejudice the tax calculation is made applying provision of section 115BBE is bad in law & illegal needs cancellation.”*

3. The appeal filed by the assessee, before the Tribunal, is barred by limitation by 104 days. The assessee moved a petition (an affidavit) for condonation of delay, requesting the Bench to condone the delay. The Learned Counsel for the assessee, explained the reasons for delay stating that Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi, has, vide order dated 27.06.2025, dismissed the appeal of assessee *ex-parte*. The above stated order and notices u/s 250 of the Act were issued online through ITBA portal, which appears to be served on wrong an e-mail address. Since, the e-mail address on which the impugned notices were served is belonging to assessee's previous tax consultant, who never intimated assessee about such notices, and therefore assessee was remained unaware about issuance of such notices of hearings, issued by the Ld. CIT(A) and appellate proceeding finalized *ex-parte*. The assessee's previous tax consultant, did not inform the assessee, about passing the *ex-parte* order by ld. CIT(A) and as a result, the delay of 104 days in filing the appeal before this Tribunal had arisen, which may be condoned in the interest of justice.



4. However, Ld. Senior DR for the Revenue opposed the prayer of assessee for condonation of delay and stated that assessee has failed to explain sufficient cause, therefore, delay should not be condoned.

5. I have heard both the parties on this preliminary issue. I find that the order of Ld.CIT(A) was served on the previous tax consultant, who has received the order of Ld.CIT(A) but could not inform the assessee, on time, therefore, delay of 104 days occurred in filing the appeal before the Tribunal. Because of the mistake on the part of previous tax consultant, the assessee should not be penalized. Therefore, I note that delay has mainly caused due to mistake of previous tax consultant who has not informed the assessee about passing of *ex-parte* order by Ld.CIT(A). Subsequently, the assessee came to know, when he accessed the ITBA portal and then after, the assessee took appropriate steps, to file the appeal before the Tribunal. Considering these facts, I am of the considered view that assessee has explained sufficient cause and therefore delay needs to be condoned.

6. I am of the view that provisions of law have to be adhered strictly and that one cannot be allowed to act in leisure and make a mockery of enacted law, because law and provisions are laid down to benefit both sides of litigation. Be that as it may, I have to do justice and the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs Mst. Katiji and others, reported in 167 ITR 471, (1988) SC 897 (7) observed as follows:

“4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non- deliberate delay.....”

7. When I weigh these two aspects then the side of justice becomes heavier and casts a duty on me to deliver justice. I note that the reasons given in the



affidavit for condonation of delay, was convincing, and the reason would constitute reasonable and sufficient cause for the delay in filing this appeal. Considering the above facts and circumstances of the case, as narrated above, I am of the considered opinion that in the interest of justice, the delay deserves to be condoned and appeal of the assessee should be decided, on merits, in accordance with law. Accordingly, I condone the delay and admit the appeal of the assessee to adjudicate, on merit.

8. On merit, 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 Id. Counsel for the assessee contended that in the interest of justice, another opportunity to contest the appeal before the assessing officer may be granted to the assessee.

9. On the other hand, learned Senior-DR for the revenue submitted that there is no point to give second inning to the assessee and assessee's appeal should be dismissed, as the assessee was negligent before both the lower authorities, as he did not appear before both the lower authorities, despite issuance of several notices.

10. I have heard both the parties and note that in the assessee's case under consideration, the assessment was carried out u/s 147 r.w.s 144B 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. I note that Id. CIT(A) has not decided the issue in respect of the ground raised by the assessee in Memo of Appeal, as per the mandate of provisions of section 250(6) of the Act. Hence, I am of the view



that one more opportunity should be given to the assessee, to plead his case before the Assessing Officer. 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. 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 Assessing Officer to adjudicate the issue afresh on merits after giving reasonable opportunity of hearing to assessee. Needless to direct that before passing the order afresh, the Assessing Officer shall allow opportunity of hearing to the assessee. The assessee is also directed to furnish all the evidence at the earliest possible of time before Assessing Officer as and when call for. In the result, ground raised by the assessee is allowed for statistical purposes.

11. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 16/01/2026.

Sd/-
(Dr. Arjun Lal Saini)
लेखा सदस्य/Accountant Member

राजकोट /Rajkot

//True Copy//

दिनांक/ Date: 16/01/2026

आदेश की प्रतिलिपि अद्येषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्ड फाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार
आयकर अपीलीय अधिकरण ,राजकोट