

**IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH SURAT**

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

**ITA No. 528/SRT/2025
(Assessment Year: 2011-2012)**

Shri Nishith Dand S/o. Anand Dand, 402, Atlantis 2, 25-28, Haribhakli Extension, Race Course Old Padra Road Vadodara – 390 007. Gujarat.	Vs.	Income Tax Officer, Ward 2(1) Paanchbatti, Railway Station Road, Near Shalimar Theater, Bharuch – 392 001. Gujarat.
PAN/GIR No. ACHPD6118R		
(Applicant)		(Respondent)

Assessee by	None
Revenue by	Shri J. K. Chandnani (Sr.-DR)

Date of Hearing	09.10.2025
Date of Pronouncement	07.01.2026

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order dt. 26.03.2025 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 2011-2012.

2. At the very outset, we noticed that the appeal of the assessee was rejected by the Ld. CIT(A) by holding that the

same is not within the limitation and assessee had not filed any application for seeking condonation of delay, therefore the appeal of the assessee was dismissed in limine.

3. After having heard the Ld. DR, we found that Ld. CIT(A) had not granted any opportunity to the assessee to move application for seeking condonation of delay. Whereas in Form No. 35 assessee had already made request for condonation of delay. Since the assessee was ex-parte therefore could not point out the said fact before the Ld. CIT(A).

4. Be that as it may, without going into the merits of the issues raised by the assessee and considering the fact that 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

5. 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.

6. In the result the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 07.01.2026

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 07/01/2026

KRK, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई/ DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai