



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**

आयकरअपीलसं./ITA No. 492 & 493/RJT/2025

(निर्धारणवर्ष/Assessment Year: (2020-21))

Om Ceramics Industries 8-A, National Highway, Wankaner, Morbi-363642	Vs.	ITO, wd – 1, Anand Nagar, Morbi – 363642
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABPO6588L		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

Appellant by : Ms. Rutvika, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 16/01/2026
Date of Pronouncement : 20/01/2026

ORDER

Per, Dr. Arjun Lal Saini, AM:

Captioned two appeals filed by the same assessee, pertaining to Assessment Year (AY) 2020-21, are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals) [in short 'Ld.CIT(A)'], which in turn arises out of separate orders passed by the assessing officer under section 143(3) of the Act and a penalty order passed by the assessing officer u/s. 271AAC(1) of the Act.

2. Since, these two appeals pertains to same assessee, and facts and issue involved in these appeals are identical, therefore, these two appeals have been clubbed and heard together and a consolidated order is being passed for the sake of convenience and brevity.



3. In the assessee's appeal in ITA 493/Rjt/2025, the assessing officer framed the assessment order u/s. 143(3) of the Act, it is quantum appeal of the assessee for Assessment Year 2020-21. However, the Ld.CIT(A) has dismissed the quantum appeal of the assessee on account of condonation of delay. That is, the Ld.CIT(A) did not condone the delay of 87 days. Hence, the Ld.CIT(A) did not admit the appeal of the assessee and dismissed the appeal of the assessee on account of delay.

4. The assessee's appeal in ITA 492/Rjt/2025 pertains to penalty u/s. 271AAC(1) of the Act for the same AY-2020-21. There is also delay in filing this appeal by 770 days before the Ld.CIT(A). The Ld.CIT(A) has also dismissed the appeal of the assessee on account of delay.

5. Now, we shall take the assessee's quantum appeal in ITA 493/Rjt/2025 for AY 2020-21, wherein the Ld.CIT(A) dismissed the appeal of the assessee on account of delay of 87 days. The Ld.Counsel for the assessee invited our attention that there was sufficient cause to condone the delay before the Ld.CIT(A), however, the Ld.CIT(A) did not condone the delay. The Ld.Counsel for the assessee submitted that when the proceedings were going on before the assessing officer, partner of the firm was suffering from serious illness, therefore, he could not file the appeal before the Ld.CIT(A) on time, therefore delay of 87 days has resulted which may kindly be condoned, in the interest of justice, and matter may be restored back to the file of the assessing officer for fresh adjudication, as the assessee wants to submit some additional documents and evidences to prove his claim.

6. On the other hand, the Ld.DR for the revenue also submitted that if the matter is restored back to the file of the assessing officer after condonation of delay than a cost should be imposed on the assessee on account of his non-cooperative attitude before the lower authorities.



7. We have heard both the parties and perused the material available on record. The Ld. Counsel for the assessee submitted that the appeal of the assessee was dismissed by the Ld.CIT(A) on account of delay and Ld.Counsel explained the sufficient cause and the reasons for such delay stating that main partner of the assessee who used to look the taxation matters was suffering from severe illness, therefore, he could not attend the proceedings before the Ld.CIT(A), and hence the delay of 87 days has resulted and therefore the Ld.CIT(A) did not condone the delay.

8. We note that the partner was suffering from severe illness, during assessment proceedings and after passing the assessment order, and therefore it is sufficient cause to condone the delay before the Ld.CIT(A). We note that the reasons given by the assessee for condonation of delay were convincing and these reasons would constitute reasonable and sufficient cause for the delay in filing these appeals before Ld.CIT(A). We, are of the considered opinion that in the interest of justice, the delay deserves to be condoned. We, accordingly, condone the delay in filing the appeal before the Ld.CIT(A). On the same reasons narrated above, we condone the delay, in assessee's appeal ITA 492/Rjt/2025, in filing the appeal before the Ld.CIT(A).

9. Since, we have condoned the delay in filing the appeal in ITA 493/Rjt/2025 before Ld.CIT(A) and we note that there is no adjudication on merit by the Ld.CIT(A). The assessee submitted before us that the assessee wants to submit some additional documents and evidences to prove his claim before the assessing officer, therefore matter may be restored back to the file of the assessing officer for fresh adjudication. We note that in the assessee's case under consideration, the assessment was carried out u/s 143(3) of the Act and the impugned order passed by the Ld. 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.



We also note that there was non-compliance attitude of the assessee, during the proceedings before the lower authorities, therefore, on account of non-compliance attitude, on the part of the assessee before lower authorities, a cost of Rs. 10,000/- (Rs. 5,000/- for each appeal) should be imposed on the assessee which should be deposited in the Prime Minister National Relief Fund. Therefore, we find that since there is no adjudication on merit by the Ld.CIT(A), therefore we set-aside the order of the Ld.CIT(A) in ITS 493/Rjt/2025 and restored the matter back to the file of the assessing officer for fresh adjudication.

10. In the result, the appeal of the assessee (ITA No. 493/Rjt/2025 for AY 2020-21) is allowed for statistical purpose.

11. Since, we restored the quantum appeal of the assessee in ITA No. 493/Rjt/2025, back to the file of the assessing officer for fresh adjudication and the assessee's appeal in (ITA 492/Rjt/2025) pertains to penalty u/s. 271AAC(1) of the Act which does have any leg to stand, therefore, we delete the penalty. However, the assessing officer may initiate fresh penalty in *de-novo* assessment proceedings, if any, as per the provision of the Act, therefore appeal filed by the assessee in ITA 492/Rjt/2025 is also allowed for statistical purpose.

12. In the combined result, both these appeals of the assessee are allowed for statistical purposes, in above terms.

Order is pronounced in the open court on 20/01/2026.

Sd/-

(Dinesh Mohan Sinha)
Judicial Member

राजकोट/Rajkot

दिनांक/ Date: 20/01/2026

Copy of the order forwarded to :

Sd/-

(Dr. Arjun Lal Saini)
Accountant Member



1. The assessee
2. The Respondent
3. CIT
4. The CIT(A)
5. DR, ITAT, RAJKOT
6. Guard File

By order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot