



**IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
DR. DINESH MOHAN SINHA, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No. 238/RJT/2025

Assessment Year: (2011-12)

Balvantrai Amrutbhai Vyas Block No. B-21, Shantiniketan Residency, Nr. Aalap Greem City, Raiya Road, Rajkot-360007	Vs.	The ITO, wd – 2(1)(1), Aayakar Bhavan, Race Course Ring Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ALLPV2034K		
(Appellant)		(Respondent)

Appellant by : Shri Ms. Devina Patel, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 16/01/2026
Date of Pronouncement : 30/01/2026

आदेश / ORDER

Per, Dinesh Mohan Sinha, JM:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2011-12, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short “the Ld. CIT(A)/NFAC”], dated 13.12.2023, which in turn arises out of an assessment order passed by Assessing Officer (in short “the AO”) u/s 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), vide order dated 14.11.2018.

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

“1. The learned Commissioner (Appeals), NFAC, Delhi erred in dismissed the appeal of the appellant in limine by falling to appreciate that the delay in filing the appeal before the Ld.CIT(A) was due to reasonable cause for which reasons were explained.

2. Order passed by the ITO, wd-2(1)(1), Rajkot u/s. 144 r.w.s. 147 of the Act is bad in law and liable to be quashed.



3. *The Learned Commissioner (Appeals), NFAC, Delhi erred in confirming the action of the ITO, wd-2(1)(1), Rajkot in making addition of Rs. 1,60,000/- by way of Exemption limit.*
4. *On merit, the Learned Commissioner (Appeals), NFAC, Delhi erred in confirming the action of the ITO, wd-2(1)(1), Rajkot in making addition of Rs. 15,35,500/- by way of unexplained cash credit u/s. 68 of the Act and thereby levying taxes at rates u/s. 115BBE of the Act.*
5. *On merits, the Learned Commissioner (Appeals), NFAC, Delhi erred in confirming the action of the ITO, wd-2(1)(1), Rajkot in making addition of Rs.1,91,763/- by way of unexplained money u/s. 69A of the Act and thereby levying taxes at rates u/s. 115BBE of the Act.*
6. *On merits, the Learned Commissioner (Appeals), NFAC, Delhi erred in confirming the action of the ITO, wd-2(1)(1), Rajkot in making addition of Rs.20,00,000/- by way of unexplained investment u/s. 69A of the Act and thereby levying taxes at rates u/s. 115BBE of the Act.*
7. *On merits, the Learned Commissioner (Appeals), NFAC, Delhi erred in confirming the action of the ITO, wd-2(1)(1), Rajkot in making addition of Rs.10,625/- by way of unexplained income u/s. 69A of the Act and thereby levying taxes at rates u/s. 115BBE of the Act.*
8. *The appellant craves leave to add, amend alter and withdraw any ground of appeal anytime up to the hearing of this appeal.”*

3. At the outset, that the appeal filed late by 427 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The relevant contention of the application for delay, is as under

“That the impugned order u/s 250 of the Act dated 13-12-2023 was not received on email address: "vyasba2014@gmail.com" or on "jsshukla_2008@yahoo.com", which were given by me on e-filing portal and in Form 35 respectively. Further, my A.R., Mr. J. S. Shukla, had uploaded his letter of authority before the CIT(A) but order u/s 250 of the Act was not received on his e-mail id also. Thus, I was not aware about the passing of the impugned order u/s 250 of the Act.

That the email id provided in Form 35 for receipt of notices by me/on my behalf was "jsshukla_2008@yahoo.com" on which notices u/s 250 of the Act were issued by the Commissioner (Appeals) and were complied with by my tax consultant. However, since there was delay in filing the appeal before the CIT(A) of 111 days, due to reasons mentioned in the condonation of delay petition before the CIT(A), the CIT(A) did not admit my appeal and had dismissed my appeal in limine by not considering my submissions on merits.

That thereafter on 07-10-2024, show cause notice u/s 271(1)(c) of the Act was received by my tax consultant on his e-mail id i.e. jsshukla_2008@yahoo.com, wherein it was



mentioned that the impugned order u/s 250 of the Act was passed and hence I was show caused as to why penalty should not be levied in my case.

That thereafter, I was informed by tax practitioner about passing of impugned order u/s 250 of the Act dated 13-12-2023 and that thereafter I approached my tax consultant in Rajkot who then advised me to approach a tribunal tax practitioner and decide further course of action.”

4. During the course of hearing, the Ld. AR submitted that the assessee was not aware about the proceedings going on before the Ld.CIT(A), therefore, the assessee could not comply with the notices. However, the Ld. AR of the assessee prayed that delay may kindly be condoned and one more opportunity to be given to the assessee to represent the case before the lower authority.

5. On the contrary, the Ld. Sr. DR for the revenue relied on the order of the Ld. CIT(A) and not objected to the prayer of the Ld. AR of the assessee.

6. We have heard both the parties and perused the material available on record. We note that the assessee was not aware about the proceedings, therefore the assessee could not comply with the assessee. That the reasons given by the assessee appear to be the sufficient cause for delay in filing the present appeal. We find that section 253(5) of the Act empowers the ITAT to admit an appeal after expiry of prescribed time of delay. After considering the reason explained by the Ld. AR. In the interest of justice, we take a judicious view that we condoned the delay in filing appeal by 427 days, and appeal filed by the assessee heard on merit.

7. Brief facts of the case are that the assessee retired employee of Rajkot Nagrik Sahkari Bank Ltd., and 85 years old. The assessment has been reopened by issuing notice u/s. 148 of the Act on the basis of information that the assessee has, during the year under consideration, deposited cash of Rs. 20,61,000/-. To substantiate the information details were called for from ICICI Bank by issuing letter u/s 133(6) of the Act. The information has been received. The bank has



provided the account statement of the assessee. The assessee was having saving bank account vide number 624801522202. On perusal of the statement it was noted that there is total credit of Rs. 35,53,179/-. This total amount consists of cash deposit of Rs. 20,61,000/-, cheque deposit of Rs. 14,79,357/- and saving bank interest of Rs. 12,822/-.

8. The assessment is reopened after obtaining prior approval of competent authority at the relevant time. The assessing officer issued notice u/s. 148 on 27/03/2018. In response to the notice u/s. 148 of the act the assessee did not file return of income. Further, assessing officer issued notices on various dates regularly. All the above notices were sent electronically to the assessee. The assessee neither filed return of income nor make any submission on any dates fixed. In absence of any details, the assessment is required to be finalized "Ex-parte" u/s. 144 of the Act.

9. Subject to the above remarks and considering that assessee has availed the basic exemption limit i.e. Rs.1,60,000/- for A.Y. - 2011-12, total income of the assessee is determined as under :-

Basic exemption limit for A.Y. - 2011-12	Rs. 1,60,000/-
Add: As discussed in para-8 above	Rs. 35,53,179/-
Add: As discussed in para-9 above	Rs. 20,00,000/-
Add: As discussed in para-10 above	<u>Rs. 10,625/-</u>
Total Income	Rs. 57,23,804/-

8. That the assessee filed an appeal against the order of the AO, before the Ld.CIT(A). That the Ld.CIT(A) dismissed the appeal of the assessee, observing as follows:

"In view of the above, this/these grounds of appeal is/are, accordingly, dismissed and the addition made by the Ld. AO on this account is, hereby, confirmed.

Since, the assessee has not adduced any additional grounds and since no ground of appeal has been altered/modified/changed, this ground of appeal is dismissed as "not pressed."



10. That the assessee filed an appeal against the impugned order of the Ld.CIT(A), before this Tribunal.

11. We have heard both the parties and perused the material available on record. We note that the notices have been issued by the Ld.AO, the assessee has not made the compliance with the notices. We note that the assessee has not gave due care and attention to the notice issued by the lower authorities and remain negligent in pursuing the case before the AO as well as Ld.CIT(A), for this non-cooperative attitude in pursuing the case. We direct the assessee to deposit a cost of Rs.1000/-, and the same is to be deposited with Prime Minister Relief fund (Government of India), within 10 days from today, and the receipt is to be submitted with the Registrar of this Tribunal. Keeping in view, and in the interest of justice, we grant an opportunity to the assessee to present his case before the AO. We set aside the order of lower authority and remit the matter back to the file of the AO for fresh adjudication on merit after giving due opportunity to the assessee of being heard., in accordance with law.

14. In the result, appeal of the assessee, is allowed for statistical purpose.

Order is pronounced in the open court on 30/01/2026.

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

Rajkot

दिनांक/ Date: 30/01/2026

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

Sd/-
(Dr. Dinesh Mohan Sinha)
Judicial Member

//True Copy//

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot