



**आयकर अपीलीय अधिकरण, राजकोट न्यायपीठ, राजकोट।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"**  
**RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.26/RJT/2026  
निर्धारण वर्ष/Assessment Year : 2013-14

Shantilal Ravjibhai Gajera Masum Vidyalaya pedak road Nr. RTO, Rajkot -360003(Guj)	बनाम/ Vs	ITO- Ward-(2(2)(2), Rajkot Gujarat-360005
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: <b>ABXPG1687K</b>		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri Darshan Rakholiya, Ld. AR  
राजस्व की ओर से/Revenue by : Shri Dheeraj Kumr Gupta, Ld. Sr-DR

सुनवाई की तारीख/**Date of Hearing** : **06/02/2026**  
घोषणा की तारीख/**Date of Pronouncement** : **06/02/2026**

**आदेश/ORDER**

**Per Dr. Arjun Lal Saini, A.M**

Captioned appeal filed by assessee pertaining to Assessment Year 2013-14, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals), dated 15.09.2025, which in turn arises out of a penalty order passed by Assessing Officer u/s. 143(3) r.w.s. 147 of the Act on 23.08.2019.

2. The appeal filed by the assessee is barred by limitation by 39 days. The assessee has moved a petition requesting the Bench to condonation the delay. The Ld. Counsel for the assessee submitted that because of communication gap between



assessee and advocate, the delay of 39 days has arisen, which may kindly be condoned in the interest of justice. However, Ld. DR for the revenue opposed the prayer of assessee for condonation of delay.

3. I have gone through the petition for condonation of delay. I have note that the reasons explained in the petition for condonation of delay is convincing in nature and the assessee has explained sufficient cause, therefore I condone the minor delay of 39 days and admit the appeal of the assessee for hearing.

4. At the outset itself, the ld. 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 contended that in the interest of justice, another opportunity to contest the appeal before the assessing officer authority may be granted to the assessee.

5. The ld. DR for the Revenue debarred from objecting the stand of the ld. Counsel.

6. 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 ld 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 143(3) r.w.s. 147 the Act and the impugned order passed by the ld. 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.

7. 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 ld. CIT(A). I note that the ld. 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. 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 assessing officer to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

8. For statistical purposes, the appeal of the assessee is treated as allowed.

**Order pronounced in the open court on 06/02/2026.**

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

राजकोट/Rajkot

दिनांक/ Date: 06/02/2026

**Copy of the order forwarded to :**

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

//True Copy//

By order  
Assistant Registrar/Sr. PS/PS  
ITAT, Rajkot