



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

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

आयकरअपीलसं./ITA No.70/RJT/2026

निर्धारणवर्ष/Assessment Year: (2013-14)

*(Hybrid Hearing)*

Jitendra Devashibhai Sonagara Prajapati Street, Nr. Dena Bank, Thangadh, Chotila, Surendranagar – 363530( Gujarat)	Vs.	ITO Ward-1, Previously ITO Ward-5 Income Tax Office, Irish Building, Opp. Mela Maldan, Surendranagar – 383001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: CVSPS1256H		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by : Shri Vipul Khandhar, Ld. AR

Respondent by : Shri Dheeraj Kumar Gupta, Ld. Sr. DR

**Date of Hearing : 06/02/2026**

**Date of Pronouncement : 06/02/2026**

आदेश / O R D E R

**Per, Dr. Arjun Lal Saini, AM:**

Captioned appeal filed by the 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 16.05.2024, which in turn arises out of an assessment order passed by Assessing Officer u/s. 147 r.w.s. 144 of the Act on 23.10.2018.

2. When the matter was called for hearing, the learned Counsel for the assessee at the outset submitted that appeal has been filed by the assessee belatedly by



542 days. That is, appeal filed by the assessee in ITA No.70/Rjt/2026 is barred by limitation by 542 days. The assessee has moved a petition for condonation of delay, requesting the Bench to condone the delay, in filing appeal. The learned Counsel therefore, adverted my attention to the affidavit filed in this regard citing reasons for condonation of delay and urged for a benign view and sought condonation of delay 542days. Learned Counsel for the assessee submitted that because of the mistake of the advocate of the assessee, the delay of 542 days has resulted for which the assessee should not be penalized. However, learned DR for the revenue, opposed the prayer of the assessee, for condonation of delay and stated that appeal may be dismissed on account of the delay. A perusal of the affidavit gives me an impression of existence of mitigating circumstances to enable me to exercise my discretion in favour of the assessee. Accordingly, the delay is condoned.

3. On merit, 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 Ld. first appellate authority may be granted to the assessee.

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

5. 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 144 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. 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 Ld. CIT(A) 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 ld. CIT(A) and remit the matter back to the file of the Ld. CIT(A) to adjudicate the issue afresh on merits. For statistical purposes, the appeal of the assessee is treated as allowed.

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

**Order is 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