

आयकर अपीलीय अधिकरण, सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री बिजयमन्दप्रुसेथ, लेखक सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member

आयकर अपील सं./ITA No.375/SRT/2025
निर्धारण वर्ष /Assessment Year : 2012-13

Gordhanbhai L Moradia 401, Krishna Vatika Society City Light Road Surat - 395 001	बनाम/ v/s.	The ITO Ward-1(3)(2) Surat - 395 001
स्थायी लेखा सं./PAN: ABLPM 2077 K		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri Samir Shah, CA	
Revenue by :	Shri Ajay Uke, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 19/11/2025
घोषणा की तारीख /Date of Pronouncement: 17/02/2026

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 10/02/2025 for the Assessment Year (AY) 2012-13.

2. The assessee has raised the following grounds of appeal:

"1. That on facts and circumstances of the case and in law, the learned CIT(A) has erred in dismissing the appeal of the Appellant merely for a delay of 2 days, that too without affording a single opportunity of requesting for condonation of delay.

2. That on facts and circumstances of the case and in law, the learned CIT(A) has erred in dismissing the appeal filed against stand of AO in issuing notice u/s. 148 of the Act based on the information received from the office of the DCIT. Cir. 2(3), Surat, arising out of assessment order in the case of M/s. Shrushti Corporation passed u/s. 143(3) r.w.s. 147 of the Act and thus, not applying his mind for initiating reassessment proceedings as required u/s. 147 of the Act.

3. That on facts and circumstances of the case and in law, the learned CIT(A) has erred in dismissing the appeal filed against stand of the AO in making addition of Rs. 8,35,236 as interest on partner's capital with the firm during the year under consideration.

4. That on facts and circumstances of the case and in law, the learned CIT(A) has erred in dismissing the appeal filed against stand of the AO in making disallowance of deduction u/s. 54B of the Act for Rs. 83,52,038/- without affording a reasonable opportunity to the appellant of making the submission and thus violating the principles of natural justice.

5. The appellant craves leave to add, amend, alter, substitute, modify the above ground of appeal, if necessary on the basis of submissions to be made at the time of personal hearing."

3. At the outset, the Ld. Counsel for the assessee has invited for our attention to the impugned order of the Ld. CIT(A) to show that the Ld. CIT(A) has dismissed the appeal of the assessee holding the same as barred by limitation of a very short period of two days. The Ld. Counsel has submitted that even the Ld. CIT(A) did not give any opportunity to the assessee to move an application for condonation of delay. He has further brought our attention to the impugned assessment order to submit that even the Ld. Assessing Officer(AO) did not give proper opportunity to the assessee to present his case and furnish the necessary details. The Ld. AR has further submitted that 2 days' delay in filing the appeal before the Ld. CIT(A) was not intentional, rather the same was due to some lapse on his authorized representative.

4. We note that in this case neither the AO has given proper opportunity to the assessee to present his case nor the Ld. CIT(A) has adjudicated the

matter on merits. In view of the above, in the interests of justice, the impugned order of the Ld. CIT(A) is set aside and the matter is restored to the file of the AO for *de novo* assessment.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 17/02/2026.

**Sd/-
(Bijayananda Pruseth)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

दिनांक/Dated 17/02/2026

टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS

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

1. ँ पीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ं पील) / The CIT(A) - (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर ँ पीलीय ँ धिकरण , सूरत /AR, ITAT, Surat/Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)
आयकर ँ पीलीय ँ धिकरण, ITAT, Surat/Ahmedabad