

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ "ए", अहमदाबाद ।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री मकरंद वसंत महादेवकर, लेखा सदस्य के समक्ष।
Before Shri Sanjay Garg, Judicial Member And
Shri Makarand V. Mahadeokar, Accountant Member

आयकर अपील सं./ITA No.1427/Ahd/2025
निर्धारण वर्ष /Assessment Year : 2016-17

Mahadev Infracon B-121, Jivanpark Society Nr. Samrat Nagar Isanpur, Ghodasar Ahmedabad - 380 050	<u>बनाम/ v/s.</u>	The Dy.CIT Circle-3(1)(1) Ambawadi Ahmedabad - 380 015
स्थायी लेखा सं./PAN: AAXFM 8708 L		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :	Shri B.R. Popat, AR	
Revenue by :	Shri Santosh Kumar, Sr.DR	

सुनवाई की तारीख/Date of Hearing : 04/12/2025
घोषणा की तारीख /Date of Pronouncement: 26/02/2026

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 27/08/2024 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Year (AY) 2016-17.

2. The assessee, in this appeal, has raised the following ground of appeal:

"1 The learned CIT(A) erred in law and on facts in dismissing the appeal ex-parte, merely on the technical ground of (bona-fide) non-response to the notices he may have issued. He did this without even going through the contents of the statement of fact, which was forming part of the appeal memo and without even calling for the requisite details as mentioned therein at least from the AO."

3. There is a delay of 256 days in preferring the present appeal before this tribunal. A separate application for condonation of delay has been filed explaining the reasons for delay. The contents of which for the shake of ready reference are reproduced as under:

" Prayer for condonation of delay of over eight months in filing of Appeal

1. Vide this application, forming part of the appeal memo in prescribed Form No. 36, the Appellant is praying for condonation of the delay in filing the underlying appeal, it is placed on record that there is a technical delay of over eight months in filing this appeal, if the same is reckoned from the date on which the order of the first appellate authority was passed, presuming that the same was uploaded on the portal on the same day. It is further placed on record that since this technical delay is for the bona-fide and legitimate reasons as narrated herein below and relying on the ratio of the judgment of Hon'ble Supreme Court. as cited elsewhere (which has been consistently followed in several subsequent judicial pronouncements of different High Courts and Tribunal Benches), this delay is required to be condoned so as to decide the ground taken in the appeal on its independent merits.

2. In the backdrop of what is stated above, the Appellant places on record that the partners of the Appellant are not having knowledge of laxation or of English language. They do not have knowledge of computer hardware and software, email operations etc. either. As a result of this fact, the total dependence on the matters relating to tax compliances has always been on the professional, whose services are being retained on regular basis. To be precise, it is placed on record that in so far as the filing of the returns of income. verifying the portal for ascertaining as to whether the notices are issued by the concerned authorities etc., are concerned, the said task has been handled by Shri Ramniklal D. Sojitra, holding PAN AOIPS9997Q. Aadhar No 925660588556, an independent tax practitioner based in Ahmedabad He was

even having access to the email address, so that he can keep track inter-alia of the appeal related matters that was pending before the first appellate authority at the relevant point of time.

3 From Insight, it is now realized that Shri Ramniklal D. Sojitra had handed over the task of verifying the portal and checking the e-mails to his subordinate, who presumably failed in doing so for quite some time. A sworn affidavit of this tax consultant is attached herewith in support of the fact.

4 In view of what is stated above, the Appellant could not represent its case in response to the hearing notices that may have been issued by the office of the first appellate authority attached to NFAC. For the same reason, when the ex-parte Appellate Order was passed by the first appellate authority, dismissing the appeal, the same did not reach the Appellant on time and it could not thus file appeal their against within the statutory time limit either. The Appellant in fact came to know about the appeal having been dismissed ex-parts only a few days back and the appeals is being filed almost immediately thereafter.

5. In view of what is stated above and in order to impart justice, it is prayed that the bona fide delay of over ether months in filing this appeal may please be condoned and the appeal may please be admitted for adjudication of the ground involved, on merit.

6 Reliance in this regard is placed on the ratio of the direct judgment of Hon'ble Supreme Court delivered in the case of Collector Land Acquisition vs. Mst. Katji, as reported at (1987) 1987.com 1072 wherein has been held that the law should be applied in a meaningful manner which subserves the ends of justice".

4. The aforesaid application is supported with the affidavit of the concerned tax consultant. Ld. AR of the assessee has further referred to the above submission to state that the impugned order of the Ld. CIT(A), under the circumstances, is an *ex-parte* order due to the non-representation of the

assessee. He has submitted that the assessee may be given an opportunity to present his case before the Ld. CIT(A).

5. Considering the above submission, we are of the view that the interests of Justice will be well served if the assessee be given an opportunity of hearing before the Ld. CIT(A), however subject to payment of reasonable costs. We accordingly, condone the delay in filing the appeal, set aside the impugned order of the Ld. CIT(A) and restore the matter to the file of the Ld. CIT(A) subject to deposit a cost of Rs.5,000/- in the Prime Minister's National Relief Fund. The assessee will furnish the evidence of deposit of the said amount before the Ld. CIT(A), thereafter the Ld. CIT(A) will decide the appeal of the assessee on merits in accordance with law.

6. 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 26/02/2026.**

**Sd/-
(Makarand V. Mahadeokar)
Accountant Member**

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

दिनांक/Dated 26/02/2026

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. संबंघित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (ंपील)/ The CIT(A)- (NFAC), Delhi
5. विभागीय प्रतिनिधि, आयकर ँपीलीय ँधिकरण , ँहमदाबाद /DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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