

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "D" BENCH

**Before: DR. BRR Kumar, Vice President  
And Shri T. R. Senthil Kumar, Judicial Member**

**ITA No: 1293/Ahd/2024  
Assessment Year: 2014-15**

Somnath Associates SF-203, Gold Croft, Opp. Only Parathas, Above Indusind Bank, Jethalpur Road, Vadodara-390007, Gujarat <b>PAN: ACEFS4604C (Appellant)</b>	Vs	The Dy.CIT Circle-1(2), Vadodara  <b>(Respondent)</b>
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**Assessee Represented: Shri Manish J Shah &  
Shri Rushin Patel, A.Rs.  
Revenue Represented: Shri Rameshwar P Meena, Sr. D.R.**

Date of hearing : 17-03-2026  
Date of pronouncement : 26-03-2026

**आदेश/ORDER**

**PER : T.R. SENTHIL KUMAR, JUDICIAL MEMBER:-**

This appeal is filed by the Assessee as against the exparte appellate order dated 03-05-2024 passed by the Commissioner of Income Tax (Appeals)-11, Ahmedabad arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2014-15.

2. Brief facts of the case is that the appellant is a Partnership Firm engaged in the business of Real Estate Development and Construction of residential/commercial complexes. There was a survey action u/s. 133A of the Act on 02-12-2013. During the survey proceeding one of the Partner of the Firm declared income of Rs.2,24,86,500/- which is offered in the profit and loss account as well as in the ITR filed on 29-04-2014 and paid taxes thereon. The appellant claimed Partners' remuneration of Rs.33,18,800/- which is inclusive the income declared during the survey proceedings. Whereas the Assessing Officer rejected the claim of Partners' remuneration to the extent of Rs.20,00,000/-, on the ground that deduction u/s. 40(b) is not allowable against income declared during the course of survey. Thus Ld. A.O. completed the assessment on 30-11-2016, against which assessee filed appeal with a delay of 1327 days on the ground that the declared income during survey was not known to other Partners and after the recovery notice dated 31-05-2019 served on the assessee Firm, the other eight partners came to know about the disallowance. In the meantime, the Tax Consultant Shri Sachin Mehta who was handling the matter also died on 17-01-2020. The delay in filing the appeal was not condoned by Ld. CIT(A).

3. Aggrieved against the exparte appellate order, the assessee is in appeal before us raising the following Grounds of Appeal:

*(1) The Ld. CIT(A) erred in law and on facts in not condoning the delay of 1327 days in filing an appeal before CIT(A), and thereby dismissing the appeal of the Appellant.*

*2. The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.*

4. During the course of hearing before this Tribunal, vide order-sheet entry dated 07-01-2026 the Division Bench imposed a cost of Rs.1,000/- for not furnishing copy of the ITR, Profit and Loss and Balance Sheet for the Asst. Year 2014-15. The assessee paid the cost of Rs.1,000/- on 12-01-2026 and produced the challan before the Registry and also filed before us the ITR, Profit and Loss and Balance Sheet for the Asst. Year 2014-15. Since the Ld. CIT(A) has not given any opportunity of hearing to the assessee to explain its case on merits, we hereby set-aside the order passed by Ld. CIT(A) with a direction to condone the delay in filing the above appeal and then decide the appeal on merits by giving one more opportunity of hearing to the assessee. Needless to say that the assessee should make use of this final opportunity and produce all relevant materials/documents before Ld. CIT(A) to pass order on merits of the case.

5. In the result, the appeal filed Assessee is treated as allowed for statistical purpose.

Order pronounced in the open court on 26-03-2026

**Sd/-**  
**(DR. BRR KUMAR)**  
**VICE PRESIDENT**  
*True Copy*  
**Ahmedabad : Dated 26/03/2026**

**Sd/-**  
**(T.R. SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)

5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलिय अधिकरण,  
अहमदाबाद