

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC-1" BENCH, AHMEDABAD**

**BEFORE SHRI P.M. JAGTAP, VICE-PRESIDENT
AND SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**ITA No. 241/Ahd/2021
Assessment Year : 2010-11**

Ishwarsingh Ramchandra Jangid, B-205, Mangal Maruti Residency, Nr. Om Shanti Nagar-2, Narol-Vatva Road, Vatva, Daskroi, Ahmedabad PAN : AGGPJ 1665 C	Vs	Income Tax Officer, Ward 3(2)(7), Ahmedabad
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		None
Revenue by :		Shri Vijay Kumar Singh, Sr. DR

सुनवाई की तारीख/Date of Hearing : 17/06/2022
घोषणा की तारीख /Date of Pronouncement: 13/07/2022

आदेश/ORDER

PER P.M. JAGTAP, VICE-PRESIDENT:

This appeal filed by the assessee is directed against the order of learned Commissioner of Income-tax (Appeals)-11, Ahmedabad ["CIT(A)" in short] dated 31.05.2019 whereby he dismissed the appeal of the assessee at the threshold by treating the same as barred by limitation.

2. The assessee, in the present case, is an individual who is engaged in transportation business. As per the AIR information received by the Assessing Officer, cash deposits of Rs.24,79,430/- were found to be made by the assessee in his bank account maintained with ICICI Bank Ltd., Mumbai during the year under consideration. Since no return of income for the year under consideration was filed by the assessee, the assessment was reopened by the Assessing Officer and a notice under Section 148 of the Income-tax Act, 1961 ("the Act" in short) was issued by him to the assessee on 29.03.2017 after recording the reasons and obtaining approval from the higher authority. There was, however, no response on the part of the assessee to the said notice issued by the Assessing Officer as well as to the subsequent notices issued by him under Section 143(2) and 142(1) of the Act. The Assessing Officer, therefore, was left with no alternative but to complete

the assessment *ex-parte* to the best of his judgment on the basis of material available on record. In the assessment so completed under Section 144 r.w.s. 147 of the Act vide order dated 27.12.2017, addition of Rs.24,79,340/- was made by the Assessing Officer on account of cash deposits found to be made by the assessee in his bank account maintained with ICICI Bank Ltd., Mumbai by treating the same as unexplained.

3. The addition made by the Assessing Officer on account of unexplained cash deposits found to be made with ICICI Bank Ltd., Mumbai was challenged by the assessee in an appeal filed before the learned CIT(A). There was, however, a delay in filing the said appeal on the part of the assessee. As noted by the learned CIT(A), the assessee, however, did not file application for condonation of the said delay. The assessee also did not comply with the notices issued by the learned CIT(A) fixing his appeal for hearing on 26.12.2018, 19.02.2019 and 25.04.2019. The learned CIT(A), therefore, dismissed the appeal of the assessee vide his appellate order dated 31.05.2019 passed *ex-parte* holding the same as barred by limitation. Aggrieved by the order of the learned CIT(A), the assessee has preferred this appeal before the Tribunal.

4. In this case, the appeal of the assessee was initially fixed for hearing before the Tribunal on 07.04.2022. The assessee, however, sought adjournment and the hearing accordingly was adjourned to 24.05.2022. On 24.05.2022, the assessee again sought adjournment and granting the same, the hearing was adjourned to 17.06.2022. On 17.06.2022, none appeared on behalf of the assessee nor any application for adjournment was filed. It is noted that there is a delay of 789 days on the part of the assessee in filing this appeal before the Tribunal and although the application seeking condonation of the said delay filed by the assessee is placed on record, no affidavit has been filed by the assessee in support of the same. Nobody has also appeared on behalf of the assessee before the Tribunal to support and substantiate the said application by explaining the reasons for the inordinate delay of 789 days. As already noted, there was non-compliance on the part of the assessee to the notices issued by the Assessing Officer during the

course of assessment proceedings as well as to the notices issued by the learned CIT(A) during the course of appellate proceedings resulting into passing of *ex-parte* orders by them. Moreover, there was a delay on the part of the assessee in filing his appeal before the learned CIT(A) and as specifically noted by the learned CIT(A) in his impugned order, no request whatsoever was made by the assessee for condonation of the said delay. Even before the Tribunal the assessee has not made any efforts to explain the delay on his part in filing the appeal before the learned CIT(A) which has resulted in dismissal of the said appeal by the learned CIT(A) by treating the same as barred by limitation. It is also noted that no efforts whatsoever have been made by the assessee to explain the cash deposits of Rs.24,79,430/- found to be made in his bank account with ICICI Bank Limited, Mumbai either before the authorities below or even before the Tribunal inspite of proper and sufficient opportunity given to him. It is not doubt true that the appellate authorities are vested with discretion to condone the delay in filing the appeal taking into consideration the reasons advanced by the appellant for such delay if the same constitute a sufficient cause. In the present case, the assessee has not only failed to establish such sufficient cause on evidence for the delay on his part in filing the appeal belatedly before the learned CIT(A) as well as before the Tribunal, but even his approach and attitude during the course of assessment proceedings as well as during the course of appellate proceedings before the learned CIT(A) as well as Tribunal have been found to be negligent, casual and noncompliant. We, therefore, refuse to condone the inordinate delay of 789 days on the part of the assessee in filing this appeal before the Tribunal and dismiss the said appeal at the threshold by treating the same as barred by limitation.

5. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 13th July 2022 at Ahmedabad.

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

Ahmedabad, Dated 13/07/2022

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Sd/-

(P.M. JAGTAP)
VICE-PRESIDENT

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधिआयकर अपीलीय अधिकरण ,/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

TRUE COPY

सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण
ITAT, Ahmedabad