

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 180/Ahd/2023  
(Assessment Year: 2016-17)

Sanjeev Harshadrai Sheth 36/2/17, Abhishek Complex, GIDC Main Road, Makarpura Vadodara-390010	Vs.	Income Tax Officer, Ward-1(2)(5), Baroda
[PAN No.AHNPS2402G]		
(Appellant)	..	(Respondent)

<b>Appellant by</b> :	Shri Sakar Sharma, A.R.
<b>Respondent by</b> :	Shri Sanjeev Bhagat, Sr. D.R.

<b>Date of Hearing</b>	15.05.2023
<b>Date of Pronouncement</b>	24.05.2023

ORDER

The appeal filed by the assessee is against the order passed by the Ld. CIT(Appeals), National Faceless Appeal Centre (in short “NFAC”), Delhi on 21.02.2023 for A.Y. 2016-17.

2. The grounds of appeal raised by the assessee are as under:

“1. The Ld. NFAC erred on facts and in law in not condoning the delay in filing of appeal despite explaining the reasons and no adjudicating the Grounds of Appeal on merits.

2. The Ld. NFAC erred on facts and in law in upholding action of Assessing Officer in making assessment u/s 144.

3. The Ld. NFAC erred on facts and in law in upholding action of the Assessing Officer in making addition of Rs. 17,10,000/- on account of credits appearing in the bank account ignoring that the appellant furnished return u/s 44AD of the Act and therefore, such credits had already been part of the sales turnover disclosed in the return of income.”

3. Return of Income for A.Y. 2016-17 was filed on 13.07.2016 declaring total income at Rs. 3,17,650/-. The case was selected for limited scrutiny for the reason that whether the investment and income relating to securities transactions are duly disclosed. Notice under Section 143(2) and

notice under Section 142(1) alongwith questionnaire was issued to the assessee. However, the Assessee did not respond to any of the notices, therefore, the Assessing officer passes assessment order under Section 144 thereby making addition of Rs. 17,10,000/- towards unexplained deposit to bank account.

4. Being aggrieved by the assessment order the assessee filed appeal before the CIT(A). The CIT(A) dismiss the appeal of the assessee on the ground that there is a delay 68 days in filing the appeal before the CIT(A).

5. The Ld. A.R. submitted that at the time of recovery proceedings the assessee came to know about the assessment order dated 11.12.2018. The Ld. A.R. submitted that no notice was received by the assessee at any point of time. The Ld. A.R. submitted that without taking cognizance of the assessee's difficulty that the income tax practitioner who has given his email id has not given the notice to the assessee and without any knowledge of the income tax notices the assessee was genuinely not represented his case before the Assessing Officer. The CIT(A) was not right in dismissing the appeal on the ground of delay.

6. The Ld. D.R. relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A) has not taken cognizance of the genuine reason of the assessee for not filing the appeal within the time limit before the CIT(A). The reason given by the assessee is justifiable

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and appears to be genuine. Hence, the delay in filing the appeal before the CIT(A) is condoned. In the interest of justice it will be appropriate to remand back the issues contested by the assessee before the CIT(A) to the file of the CIT(A) for taking cognizance of the same on merit and adjudicate the same and decide the issues contested therein on merit after taking into account the evidences submitted by the assessee before the CIT(A). Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

**This Order pronounced in Open Court on**

**24/05/2023**

Sd/-  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Ahmedabad; Dated 24/05/2023

TANMAY, Sr. PS

**TRUE COPY**

**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 प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad