

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 950/Ahd/2023
Assessment Year 2014-15**

Prakashkumar Ambalal Patel, 58 Safal Narayan Nagar, B/h Thhuko Party Plot Modhera Road, Mehsana-384002 PAN: ALAPP5141L (Appellant)	Vs	The Income Tax Officer, Ward-1, Mehsana (Respondent)
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Assessee by: Shri H.V. Doshi, A.R.

Revenue by: Ms. Saumya Pandey Jain, Sr. D.R.

Date of hearing : 04-01-2024

Date of pronouncement : 17-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 16-10-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2014-15.

2. The grounds of appeal are as under:-

“1. The ld. CIT(Appeal) national faceless appeal centre Delhi has erred in law and on facts of the case in confirming the order u/s. 143(1) of Ld. DDIT, CPC by computing business income of Rs. 36,95,639/- as against returned business income of Rs. 4,24,218/-.

3. The assessee filed return of income for assessment year 2014-15 on 09-10-2014 declaring total income at Rs. 4,90,980/-. The said return of income was processed by the CPC determining the total income at Rs. 37,62,400/- and a demand of Rs. 11,54,740/- was raised vide intimation order u/s. 143(1) of the Act dated 02-07-2015. The CPC Bangalore has added a sum of Rs. 29,94,456/- to the total income as declared in the ITR by the assessee as contract income under other revenue as per the intimation order u/s. 143(1) dated 02-07-2015.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The ld. A.R. submitted that the CIT(A) has dismissed the appeal on the basis of delay in filing the appeal of 2929 days for which the assessee has stated that the reasons that the intimation was not served to the assessee but the assessee came to know about the intimation when the action of demand for recovery came to the knowledge of the assessee. The assessee filed rectification request to the CPC but it was not processed by the CPC and the said rectification jurisdiction was transferred to a different jurisdictional Assessing Officer. On receipt of demand letter dated 02-08-2023, the assessee

filed rectification application to jurisdictional Assessing Officer but the Assessing Officer rejected the said rectification application and suggested to file appeal as per letter dated 07-08-2023. Thus, the ld. A.R. submitted that the delay is due to the reasonable cause of bonafide belief about mistake which is rectifiable u/s. 154 and without any malafide intention to defraud Revenue.

6. The ld. D.R. relied upon the order of CIT(A) and submitted that the assessee has not taken cognizant measures to follow of the intimation issued by CPC as well as valid verifiable order u/s. 154.

7. Heard both the parties and perused all the relevant materials available on record. It is pertinent to note that though the delay is that of 2929 days but whether the intimation was rightly served to the assessee was not denied by the Revenue. In fact, the assessee has taken a measure of filing rectification application u/s. 154 and the same was also not entertained. The Assessing Officer has also suggested to file appeal and therefore the assessee after exhausting all the remedies has filed the appeal before the CIT(A). Thus, the delay in filing the appeal was not deliberate. These aspects have not been taken into account by the CIT(A). In fact, the assessee has filed the detailed affidavit explaining

the delay before the CIT(A). This was also totally ignored. Therefore, we are condoning the delay in respect of the appeal filed before the CIT(A), the remaining matter to the file of CIT(A) for proper adjudication of the issues contested by the assessee in the appeal filed before the CIT(A). Needless to say, the assessee be given opportunity of hearing by following principles of natural justice.

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

Order pronounced in the open court on 17-01-2024

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Ahmedabad : Dated 17/01/2024

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.

True Copy

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद