

IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT
BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER.

&

SHRI DIESH MOHAN SINHA, JUDICIAL MEMBER

आयकरअपीलसं./ITA No.147& 148 /RJT/2025

&

आयकरअपीलसं./ITA No. 227 & 228 /RJT/2022

निर्धारणवर्ष / Assessment Year: (2016-17& 2017-18)

(Hybrid Hearing)

M/s. Arham Enterprise Shop No.3, 8 – B, Sarvoday Society, Nr. Hargange Weigh Bridge, Veraval (Shaper) - 360025	Vs.	The Income Tax Officer (TDS), Ward – 1, Aayakar bhavan, Amruta Estate, M. G. Road, Rajkot – 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AATFA1101C		
(Appellant)		(Respondent)

Appellant by : Shri Mehul Ranpura, Ld. AR

Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

Date of Hearing : 26/06/2025

Date of Pronouncement :19/09/2025

आदेश / ORDER

PER DINESH MOHAN SINHA JM;

These four appeals, filed by same assessee, pertaining to assessment years 2016-17 to 2017-18, are directed against the separate orders passed by the Commissioner of Income Tax (Appeals), which in turn arise, out of separate orders, passed by the Assessing Officer, under section u/s.206(C) & 206C(7) of the Income Tax Act, 1961(hereinafter referred to as “the Act”).

2. Since, in these four appeals are filed by the same assessee, and in the appeals have identical and similar facts are involved. Therefore, these four appeals have been clubbed and heard together and consequent order has been passed for seek convenience and poverty.

3. First of all, we adjudicate the ITA No. 147 & 148/Rjt/2025 for AY 2016-17 to 2017-18. We take lead case ITA No. 147/Rjt/2025 for AY 2016-17 in the case of Arham Enterprise, have been taken into consideration for deciding these four appeals and *en-masse* together.

4. The Grounds of appeal (ITA 147/Rjt/2025 for AY 2016-17) raised by the assessee, are as follows;

“1. The grounds of appeal mentioned hereunder are without prejudice to one another.

2. The Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as the CIT(A)] erred in law as also on facts in confirming AO's action of determining tax liability of Rs. 2,57,530/- by alleging that the appellant is liable for making TCS, which he failed to make either TCS and genuineness of Form No. 27C is questionable. The tax liability confirmed is totally unjustified on facts as also in law and may kindly be deleted.

3. The Id. CIT(A) erred in law as also on facts in confirming charging of interest u/s. 206C(7) of the Act at Rs. 1,54,520/-. The interest levied on tax liability determined u/s. 206C(6) is totally unjustified on facts as also in law and may kindly be deleted.

4. appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.”

5. The Grounds of appeal (ITA 148/Rjt/2025 for AY 2017-18) raised by the assessee, are as follows;

“1. The grounds of appeal mentioned hereunder are without prejudice to one another.

2. The Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as the CIT(A)] erred in law as also on facts in confirming AO's action of determining tax liability of Rs. 2,17,380/- by alleging that the appellant is liable for making TCS, which he failed to make either TCS and genuineness of Form No. 27C is questionable. The tax liability confirmed is totally unjustified on facts as also in law and may kindly be deleted.

3. The Id. CIT(A) erred in law as also on facts in confirming charging of interest u/s. 206C(7) of the Act at Rs. 1,04,347/-. The interest levied on tax liability determined u/s. 206C(6) is totally unjustified on facts as also in law and may kindly be deleted.

4. Your Honour's appellant craves leave to add, to amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal."

6. At the outset itself, the Id. Counsel for the assessee submitted that both the appeals filed by the assessee before the Tribunal are barred by limitation of 518 days and 152 days respectively. The ITA No.147/RJT/2025 for A.Y.2016-17 is barred by limitation of 518 days whereas assessee's appeal in ITA No.148/RJT/2025 is barred by limitation of 152 days. The Ld. AR of the assessee has filed an application for condonation of delay, supported by Affidavit. The application for delay is as under;

"hereinafter referred as to the "Act" was finalized vide order dated 12.03.2021 The proceeding u/s.206C(6) r.w.s. 206C(7) of the Income-tax Act, 1961 raising demand of Rs.4,12,050/- by treating appellant as defaulter u/s.206C(6) of 1. the Act on account of non-deduction of TCS on S.S. Scrap

2. In an appeal filed, the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi has vide order dated 05.07.2024 dismissed the appeal without proper appropriation of facts on record and submission filed.

3. The above stated order and notices u/s.250 of the Act were issued online through ITBA Portal, on an e-mail address "jaykamdar80@gmail.com". The said e-mail address belonging to partner Jay Kamdar. On receipt of the same he forwarded the same to his accountant with the direction to send it to consultant who is handing appellant matter of appellant. However, by mistake he sent the same to appellant's regular tax consultant instead of sending to the chartered accountant handling the appellate proceeding. Therefore, the appellate order remains unattended and appeal could not be filed within prescribed time limit.

4. Under the above peculiar facts and circumstances of the appellant's case the appeal could not be filed before the Hon'ble ITAT within prescribed time limit of 60 days. Delay of approx 181 days in filing of appeal. Thus, the delay in filing this appeal is not intentional but because of the facts and circumstances mentioned above. Above stated facts have duly sworn by the appellant in an affidavit attached herewith.

5. In view of the above, the appellant humbly prays to the Hon'ble Members that the delay in filing the appeal may kindly be condoned and may please be admitted and decided on merits by exercising the powers conferred in the ITAT vide provisions of section 253(5) of the Income-tax Act, 1961. In this connection, the appellant begs to invite the attention of Hon'ble Members to the decision of Hon'ble Supreme Court in

the case of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471.”

7. During the course of hearing, the Ld. AR stated that notices were issued through ITBA Portal, on an e-mail address "jaykamdar80@gmail.com". The said e-mail address belongs to partner Jay Kamdar. He forwarded the same to his accountant with the direction to send it to Chartered Accountant who was handling appeal matter. However, by mistake, Accountant sends the same to appellant's regular tax consultant instead of sending to the chartered accountant who was handling the appellate proceeding. Therefore, the appellate order remained unattended and appeal could not be filed within prescribed time limit. The Ld. AR requested that the delay may kindly be condoned in filing the appeal, and the matter may kindly be send back to the lower authority for proper adjudication. The Ld. DR for the revenue did not object to the prayer for condonation of delay and prayer for one opportunity granted to the assessee for hearing.

8. Brief facts of the Case that the appellant is a Partnership Firm doing business of trading in scrap. Proceeding u/s. 201 was initiated by the Income tax Officer, TDS1, Rajkot (the AO) for non- collection of TCS on scrap and non-filing of statement in form no. 27EQ within the prescribed time. During that period the family members of Mr. Jay Kamdar (Partner of the firm) were infected by covid-19 and father of partner Shri Jay S. Kamdar was died on 04.02.2021. Due to this unforeseen situation the appellant was not in a position to submit reply within a time allowed by the AO. However, the appellant has prepared reply along with Form 27BA (Chartered Accountants certificate as prescribed under first proviso to sub-section (6A) of section 206C of the I.T. Act) on 12.03.2021 and going to file on 15.03.2021. The AO has made an order u/s. 234E of the Act for non-filing of TCS statement and raised a demand of Rs.2,57,530/-. That the

assessee filed an appeal (ITA No. 147/Rjt/2025 for AY 2016-17) against the order of the AO dated 05.07.2024 before the Ld. CIT(A). That the Ld. CIT(A) dismissed the appeal with following remarks:

“12. In the instant case, there are doubts with regard to the genuineness of the declaration stated to be filed by the appellant added to the fact that these was an extraordinary delay of 28 months in filing such declaration. Further, the appellant has not responded to the Assessing officer during proceedings initiated u/s. 206C of the Act. Under the above facts and circumstances the arguments of the assessee are unjustified and hence, ground number 6 is treated as dismissed.

13. In the result, the appeal is treated as dismissed.”

9. We have heard both the parties. We note that the assessee was not aware about the proceedings going on before the Ld. CIT(A). In the absence of any contrary material of fact available on record, there is a sufficient cause for delay in filing the present appeal. The said e-mail address belonging to partner Jay Kamdar. On receipt of the same he forwarded the same to his accountant with the direction to send it to consultant who is handing appellant matter of appellant. However, by mistake he sent the same to appellant's regular tax consultant instead of sending to the chartered accountant handling the appellate proceeding. Therefore, the appellate order remains unattended and appeal could not be filed within prescribed time limit. Sec. 253(5) of the Act, empowers the ITAT to admit an appeal after the delay explained by the assessee, considering the reason explained by the Ld. AR that in appears to be sufficient cause for not filing the appeal in time. In the interest of justice, we take a judicious view that the delay of 518 days in ITA No.147/RJT/2025 and 152 days in ITA No.148/RJT/2025 deserves to be condoned and, accordingly, we condone the delay and admit both the appeals of the assessee to adjudicate on merit. Therefore, we are of the view that one more opportunity should be given to the assessee to produce/submit the relevant documents before the Lower Authority. Therefore, we set aside the order of the Ld. CIT(A) and remand the matter back

to the file of the AO, for fresh adjudication and direct to the assessee to submit all the relevant details/ documents/ evidence, if any as required by the Ld. AO for adjudication of the case.

ITA No. 227 & 228/Rjt/2022 for AY 2016-17 & 2017-18

10. We have to adjudicate the appeals (ITA 227 & 228/Rjt/2022 for AY 2016-17 & 2017-18). That these two are appeals are disposed off with the above terms.

11. In the result, all these appeals of the assessee i.e., *ITA.147&148/Rjt/2025, and ITA.227&228/Rjt/2022 for AY 2016-17 to 2017-18*, are allowed for statistical purpose.

Order pronounced in the open court on 19/09/2025.

**Sd/-
(Dr. A.L. SAINI)
ACCOUNT MEMBER**

**Sd/-
(DINESH MOHAN SINHA)
JUDICAL MEMBER**

(True Copy)

Rajkot

दिनांक/ Date: 19/09/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot