

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” BENCH, AHMEDABAD  
(CONDUCTED THROUGH VIRTUAL COURT)**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER &  
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. No. 2191/Ahd/2018  
(Assessment Year: 2010-11)

|   |     |                                   |
|---|-----|-----------------------------------|
| Nilesh Dashrathlal Nagar<br>A1-706, Mahadev Residency-2,<br>Nr. Doon School, New<br>Maninagar, CTM Police<br>Chowky, Ramol,<br>Ahmedabad-382449 | Vs. | ITO<br>Ward:5(3)(4),<br>Ahmedabad |
| <b>PAN No. AEKPN8090F</b>   |     |                                   |
| <b>(Appellant)</b>  | ..  | <b>(Respondent)</b>               |

|                        |                           |
|------------------------|---------------------------|
| <b>Appellant by :</b>  | Ms Mukti Mehta, AR        |
| <b>Respondent by :</b> | Shri S. S. Shukla, Sr. DR |

|                              |            |
|------------------------------|------------|
| <b>Date of Hearing</b>       | 04.01.2021 |
| <b>Date of Pronouncement</b> | 06.01.2021 |

ORDER

**PER Ms. MADHUMITA ROY - JM:**

The instant appeal filed by the assessee is directed against the order dated 14.08.2018 passed by the Commissioner of Income Tax (Appeals) –5, Ahmedabad arising out of the order dated 24.11.2017 passed by the ITO, Ward-5(3)(4), Ahmedabad under Section 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred as to ‘the Act’) for Assessment Year 2010-11 whereby and whereunder the appeal of the appellant was dismissed on the ground of delay in filing the same before the Ld. Commissioner.

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2. We have heard the respective parties and we have also perused the relevant materials available on record.

There is 67 days delay in preferring the said appeal before the Ld. Commissioner by the appellant. The plea of the assessee is this that the notices were served upon the appellant at his own correspondence address which he already left in the year 2016 due to family dispute and difference with the parents. Ultimately the notice was received by the appellant and though the appeal was due to be filed by 29.12.2017, taking into consideration the date of service of notice dated 29.11.2017, for the reason mentioned above the same was filed only on 05.03.2018. Such explanation rendered by the assessee supported by an affidavit seems to be genuine and hence we find sufficient reason to get the matter admitted by the Ld. CIT(A). We, therefore, condone such delay and restoring the matter to the file of the Ld. CIT(A) to dispose of the same upon giving a reasonable opportunity of being heard to the assessee and also upon taking into consideration the evidence on record and any other evidence which the assessee may choose to file at the time of hearing of the appeal. Assessee's appeal is, therefore, allowed for statistical purposes.

3. In the result, assessee's appeal is allowed for statistical purposes.

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| <b>This Order pronounced in Open Court on</b> | <b>06/01/2021</b> |
|---|-------------------|

Sd/-  
(WASEEM AHMED)  
**ACCOUNTANT MEMBER**  
Ahmedabad; Dated 06/01/2021  
TANMAY, Sr. PS

Sd/-  
(Ms. MADHUMITA ROY)  
**JUDICIAL MEMBER**

TRUE COPY

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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 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

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