

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

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.2106/Ahd/2025
(Assessment Year: 2017-18)

Firoj Sabbirmohammad Moravala, National Motors, Nr. Post Office, Station Road, Mora, Morva Hadaf, Panchmahal-389115	Vs.	Income Tax Officer, Ward-4(1)(2), Vadodara
[PAN No.ARTPM0958R]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Arvind Kumar Purohit, AR
Respondent by:	Shri C Dharani Nath, Sr. DR

Date of Hearing	12.03.2026
Date of Pronouncement	24.03.2026

O R D E R

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 21.03.2025 passed for A.Y. 2017-18.

2. The assessee has taken the following grounds of appeal:

“Ground No.1:- Invalidity of order.

That the learned CIT (A) erred in confirming the assessment order passed without proper jurisdiction, beyond the show cause notice issued, violation of CBDT circular and Income tax rule which is bad in law and against the principles of natural justice. That the order passed is bad in law and void ab initio.

Ground No.2:- Addition confirmed by CIT(A), Vadodara under section 69A.

That the learned CIT(A) erred in confirming the addition of Rs 97,35,560/- made by the AO under section 69A without proper appreciation of facts. That the addition of Rs. 97,35,560/- is unjustified, arbitrary, and deserves to be deleted.

Ground No. 3:- General /Residual ground.

That the appellant craves leave to add, amend, alter or withdraw any ground appeal before or at the time of hearing.”

Condonation of delay

3. At the outset, we note that the present appeal has been filed by the assessee before the Tribunal with a delay of 159 days. The assessee has filed an application for condonation of delay explaining the reasons which prevented it from filing the appeal within the prescribed time limit.

4. We have carefully considered the application for condonation of delay along with the submissions made therein and perused the material placed on record. The assessee has submitted that the delay in filing the appeal was neither intentional nor deliberate but occurred due to circumstances beyond its control. It has been stated that the order of the Ld. CIT(A) was received by the assessee, however, due to internal administrative issues, time consumed in collating relevant documents, and procedural delays at the level of management and professional advisors, the appeal could not be filed within the prescribed period. It has further been submitted that once the delay was noticed, immediate steps were taken to file the appeal without any further lapse.

5. From the contents of the application, it is evident that the delay has been sufficiently explained and there is no material on record to suggest that the delay was on account of any mala fide intention or deliberate inaction on the part of the assessee. It is a settled position of law that while considering an application for condonation of delay, a liberal approach is required to be adopted so as to

advance substantial justice. The Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji (167 ITR 471) has held that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. Similarly, in the case of N. Balakrishnan vs. M. Krishnamurthy (1998) 7 SCC 123, it has been held that length of delay is not material, but the acceptability of the explanation is the only criterion.

6. In the present case, we find that the assessee has given a plausible and reasonable explanation for the delay. The reasons assigned do not indicate any negligence or lack of bona fides. Further, denying the assessee an opportunity of being heard on merits on account of such delay would result in miscarriage of justice.

7. Considering the entirety of facts and circumstances of the case, and in the interest of substantial justice, we are satisfied that the assessee was prevented by sufficient cause from filing the appeal within the prescribed time. Accordingly, the delay of 159 days in filing the present appeal is condoned.

8. In the result, the application for condonation of delay filed by the assessee is allowed and the appeal is admitted for adjudication on merits.

On Merits

9. The brief facts of the case are that the assessee filed his return of income for Assessment Year 2017-18 declaring total income of Rs. 3,50,120/-. The return was processed under section 143(1) of the Act. Subsequently, the case was selected for limited scrutiny under CASS on the issue of "cash deposits during the year". During the course of assessment proceedings, the Assessing

Officer issued notices under sections 143(2) and 142(1) of the Act on various dates asking the assessee to produce details regarding the source of cash deposits made in the bank account. However, the Assessing Officer observed that there was either no compliance or inadequate compliance on the part of the assessee.

10. From the information available on record, the Assessing Officer noticed that the assessee had deposited cash amounting to Rs.97,35,560/- in his Bank of Baroda account during the relevant financial year. The assessee submitted that he was engaged in the business of acting as a sub-dealer of Rajai Motors (authorized dealer of Hero MotoCorp) and that he received bikes from the dealer and sold them to customers on commission basis. The assessee also claimed that cash was received from customers and deposited in the bank and thereafter paid to the principal dealer. However, the Assessing Officer observed that the assessee failed to furnish any documentary evidence to substantiate such claim despite being given multiple opportunities and also a final show cause notice. In the absence of any satisfactory explanation and supporting evidence, the Assessing Officer invoked the provisions of section 69A of the Act and treated the entire cash deposits of Rs.97,35,560/- as unexplained money and added the same to the total income of the assessee, taxing it under section 115BBE of the Act.

11. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(Appeals). Before the Ld. CIT(A), the assessee reiterated that he was acting as a sub-dealer of Rajai Motors, receiving commission on sale of bikes, and that the cash deposits represented business receipts which were subsequently paid to the principal dealer. However, the Ld. CIT(A) observed that despite issuance of multiple notices during appellate proceedings, the assessee failed to file any supporting documents or evidences to substantiate his

claim. The Ld. CIT(A) observed that even during assessment proceedings, the assessee had failed to discharge the onus of explaining the nature and source of cash deposits, and the same position continued during appellate proceedings as well. Accordingly, the Ld. CIT(A) held that the assessee failed to explain the source of cash deposits and confirmed the addition made by the Assessing Officer under section 69A of the Act and dismissed the appeal of the assessee.

12. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee.

13. We have heard the submissions and perused the material available on record. At the time of hearing before us, the counsel for the assessee submitted that the Assessing Officer has made addition of the entire cash deposits without granting credit for substantial cash withdrawals made by the assessee from the same bank account. It was further submitted that the assessee is engaged as an authorized sub-dealer for Rajai Motors (authorized dealer of Hero MotoCorp) and operates on commission basis, wherein cash is received from customers and subsequently remitted to the principal dealer. It was contended that proper opportunity was not effectively availed earlier and the assessee is now in a position to substantiate the claim with supporting evidences.

14. Considering the totality of facts and circumstances of the case, we are of the view that the issue requires fresh examination at the level of the Assessing Officer. The addition has been made primarily on account of non-compliance and absence of evidence. In the interest of justice, one more opportunity should be granted to the assessee to substantiate his claim regarding the nature and source of cash deposits, including reconciliation of deposits with withdrawals and business transactions.

15. Accordingly, we restore the matter to the file of the Assessing Officer for de novo adjudication. The Assessing Officer shall provide adequate opportunity of being heard to the assessee and the assessee is directed to furnish complete details and evidences in support of his claim. At the same time, considering the conduct of the assessee in not properly responding during earlier proceedings, we deem it fit to impose a cost of Rs. 10,000/- which shall be deposited by the assessee with the Prime Minister Relief Fund before the next date of hearing before the Assessing Officer.

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

This Order is pronounced in the Open Court on 24/03/2026

Sd/-
(NARENDRA P. SINHA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 24/03/2026

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