

THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "A" BENCH

**Before: Ms. Annapurna Gupta, Accountant Member  
And Shri TR Senthil Kumar, Judicial Member**

**ITA No. 1856/Ahd/2024  
Assessment Year 2020-21**

Nikhil Vinodchandra Shah, Ahmedabad PAN: AKTPS4765R <b>(Appellant)</b>	Vs	The Dy. CIT, Circle-2(1)(1), Ahmedabad <b>(Respondent)</b>
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**Assessee by: Shri Parin Shah, A.R.  
Revenue by: Shri B.P. Srivastav, Sr. D.R.**

Date of hearing : 06-02-2025  
Date of pronouncement : 10-02-2025

**आदेश/ORDER**

**PER : TR SENTHIL KUMAR , JUDICIAL MEMBER:-**

This appeal is filed by the assessee as against the appellate order dated 17-09-2024 passed by the Joint Commissioner of Income Tax, (Appeals)-1 Jaipur, National Faceless Appeal Centre, arising out of the intimation made u/s. 143(1) of the Income Tax Act, 1961 (hereinafter referred to as the "Act") relating to the assessment year 2020-21.

I.T.A No. 1856/Ahd/2024 A.Y. 2020-21  
Nikhil Vinodchandra Shah vs. Dy. CIT

Page No. 2

2. The appeal was dismissed by the NFAC that the same is filed with a delay of more than 30 months. When the assessee was sought to explain the delay, the assessee explained that he was exploring opportunities to resolve the issue by grievance applications and rectification petitions. This explanation offered by the assessee was not held to be convincing, thereby NFAC dismissed the appeal as not maintainable.

2.1 The ld. counsel submitted before us that the intimation was passed on 18-10-2021. The assessee being a salaried person, he made a grievance petition on 04-07-2022 with acknowledgement no. 6258006. Then rectification petition dated 15-04-2024 and also further grievance petitions dated 12-04-2024, 08-05-2024 and 15-05-2024. However, as there was no redressal against the above applications, thereby the assessee filed the appeal on 29-08-2024 whereby delay of more than 30 months. Ld. Counsel placed on record at page nos. 5 to 10 of the paper book, the grievance petitions and the rectification petition filed with Department. Thus, we are convinced with the reasons of delay in filing the above appeal, therefore, the delay of more than 30 months in filing the appeal before JCIT(A) is hereby condoned.

3. The assessee has taken the following grounds of appeal:-

*“1. The order passed by lower authorities is bad in law and required to be quashed.*

*2. Ld. JCIT(A) erred in dismissing appeal by observing that same is barred by limitation ignoring fact that appellant is approaching revenue to resolve the issue through grievance application.*

I.T.A No. 1856/Ahd/2024 A.Y. 2020-21  
Nikhil Vinodchandra Shah vs. Dy. CIT

Page No. 3

3. *Ld. JCIT (A) erred in law and on facts in confirming adjustment of Rs. 779840/- made u/s 10(13A) by disallowing claim of house rent allowance.*

4. *Ld. JCIT (A) ought to have considered fact that impugned adjustment is not permissible adjustment and ought to have deleted adjustment made by CPC.*

5. *Ld JCIT (A) ought to have considered fact that impugned order u/s 143(1) was passed without granting opportunity of being heard and thus violated principle of natural justice.*

6. *Charging of Interest u/s 234B & 234C are unjustified.”*

4. The solitary grievance of the assessee is that the CPC erred in denying exemption u/s. 10(13A) being HRA allowance received of Rs. 7,79,842/- without valid reasons, whereas the claim made by the assessee is well within Rule 2A of the Income Tax Rules, therefore, the addition made by the CPC is liable to be deleted.

5. The ld. Sr. D.R. appearing for the Revenue has fairly admitted that the disallowance made by CPC is not correct in law and the matter may be set aside to Jurisdictional Assessing Officer for verification.

6. We have given our thoughtful consideration and perused the materials available on record. The CPC is not correct in denying the deduction u/s. 10(13A) of the Act. The CPC in one of the grievance resolutions dated 12-04-2024 replied that the demand is raised due to the reason that that exempt Allowance under Section 10(13A) is more than minimum of : a) 50 of (Basic +DA) or b) HRA whereas working as per Rule 2A of the IT Rules are as follows:-

I.T.A No. 1856/Ahd/2024 A.Y. 2020-21  
Nikhil Vinodchandra Shah vs. Dy. CIT

Page No. 4

Particulars	Amount (Rs.)	Amount(Rs.)
<b>Basic Information</b>		
Salary + DA	24,01,576/-	
<b>Calculation as per Rule 2A</b>		
Rent Paid (A)	10,20,000/-	
Rent paid less 10% salary Rs. 10,20,000/- less Rs. 2,40,157/- (B)	7,79,843/-	
40% of Salary being Non- Metro (C)	9,60,628/-	
HRA Received (D)	11,10,660/-	
<b>HRA Allowable (lower of A+B+C+D)</b>		<b>Rs. 7,79,843/- (Refer B above)</b>

From the above table calculation under Rule 2A of the IT Rules, we find the assessee is correct in making the claim of Rs. 7,79,842/- as allowable exemption u/s. 10(13A) of the Act. Thus, grounds raised by the assessee are hereby allowed.

7. In the result, the appeal filed by the assessee is hereby allowed.

Order pronounced in the open court on 10-02-2025

**Sd/-**  
**(ANNAPURNA GUPTA)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 10/02/2025**

**Sd/-**  
**(TR SENTHIL KUMAR)**  
**JUDICIAL MEMBER**

I.T.A No. 1856/Ahd/2024 A.Y. 2020-21  
Nikhil Vinodchandra Shah vs. Dy. CIT

Page No. 5

**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.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद