

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, MUMBAI**

**SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 739/MUM/2024  
(Assessment Year: 2010-11)**

**Mehul Deepak Modi,**

Room No. 12/A, Rajendra Bhuvan,  
Sainath Nagar, LBS Road,  
Ghatkolpar - 400086  
[PAN: AFWPM0205N]

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**Appellant**

**Assessing Officer,**

**27(2)(3), Vashi New Mumbai,**  
Tower No. 6 Room No. 417,  
Vashi Railway Station,  
New Mumbai - 400703

Vs

.....

**Respondent**

**Appearance**

For the Appellant/Assessee : None  
For the Respondent/Department : Shri H.M. Bhatt

**Date**

Conclusion of hearing : 29.05.2024  
Pronouncement of order : 30.05.2024

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. By way of the present appeal the Assessee has challenged the order, dated 11/09/2023, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2010-11, whereby the Ld. CIT(A) had dismissed the appeal the Assessee against the Assessment Order, dated 26/12/2016, passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Assessee has, inter alia, raised the following grounds of

appeal:

- "1. *That on the facts and circumstances of the case, the order passed by the Commissioner of Income Tax (Appeals) (hereinafter as "CIT (Appeals)") u/s 250 of the Income Tax Act, 1961 (hereinafter as "the Act") dated 11.09.2023 and the additions made therein by the CIT (Appeals) are illegal, bad in law and without jurisdiction.*
2. *That the AO and the Commissioner of Income Tax (Appeals) ("CIT(A)") have grossly erred on facts and in law in passing the orders without giving a sufficient and reasonable opportunity to the assessee to be heard. The orders have been passed in violation of principles of natural justice."*
3. When the appeal was taken for hearing, none was present on behalf of the Appellant. On perusal of order, dated 11/09/2023, passed by the CIT(A) under Section 250 of the Act we find that the CIT(A) has not adjudicated the appeal of the Appellant on merits and has dismissed the same in limine for want of prosecution. As per provisions contained in Section 250 of the Act, whether an assessee appears before the CIT(A) or not, it is the statutory obligation of the CIT(A) to dispose of an appeal on merits. Section 250(6) of the Act lays down that the order passed by the CIT(A) shall be in writing and shall state the points for determination; the decision thereon; and the reason for the decision. [*Marvel Industries Limited Vs. Deputy Commissioner of Income Tax, Circle 2(2)(2), Mumbai, dated 19/07/2022, ITA No. 779/Mum/2022*]. The scheme of Section 250 of the Act does not visualize any situation in which an appeal can be summarily dismissed by the CIT(A) disregarding the material on record. Therefore, in view of the aforesaid, the order, dated 11/09/2023, passed by the CIT(A) is not sustainable in law as the CIT(A) was required to decide the appeal on merits. Accordingly, order dated 11/09/2023, passed by the CIT(A) is set aside and the appeal is restored back to the

file of CIT(A) for denovo adjudication as per law.

4. In terms of above, Ground No. 1 and 2 are allowed for statistical purposes while all the other grounds raised in the appeal are dismissed as being infructuous.
5. In result, the present appeal is allowed for statistical purposes.

Order pronounced on 30.05.2024.

**Sd/-**  
**(Amarjit Singh)**  
**Accountant Member**

**Sd/-**  
**(Rahul Chaudhary)**  
**Judicial Member**

मुंबई Mumbai; दिनांक Dated : 30.05.2024  
Alindra, PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT,  
Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai