

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

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
HON'BLE SHRI OMKARESWAR CHIDARA, ACCOUNTANT MEMBER**

**ITA No. 391/Mum/2025
(Assessment Year: 2012-13)**

Prashid Construction Pvt Ltd Bhanu 6, Vithal Nagar Society, NS Road, No. 10, Jhu Scheme Vile Parle, Mumbai – 400 049.	Vs.	ITO – 10(3)(4) Room No. 554, Aayakar Bhavan, MK Road, Mumbai
PAN/GIR No. AACCP5073D		
(Applicant)		(Respondent)

Assessee by	Shri Sanjay r. Parikh
Revenue by	Shri H.M Bhatt, Sr.DR

Date of Hearing	17.04.2025
Date of Pronouncement	22.04.2025

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order dt. 20.09.2024 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre, Delhi / CIT(A), for the A.Y 2012-13.

2. At the very outset, we noticed that appeal of the assessee was dismissed by Ld. CIT(A) vide its order dated

20.09.2024 by holding that since the assessee had not furnished complete set of documents.

3. Thereafter, assessee filed an application for seeking rectification of order dated 20.09.2014 but the rectification application was also rejected on 04.12.2024. Against this order assessee has now preferred the present appeal and submitted that notice u/s 250 of the Act was issued by Ld. CIT(A) on 10.09.2024 thereby seeking the submissions of the assessee, the complete set of documents including paper book and complete assessment order passed u/s 147 r.w.s 143(3) of the Act was also filed vide acknowledgement No. 471967761200924 on 20.09.2024 itself but none of those documents were considered by Ld. CIT(A).

4. On the contrary Ld. DR submitted that several opportunities were given to the assessee to furnish the documents but the same could not be furnished by the assessee till 2.30 pm on 20.09.2024, thereafter order was passed by Ld. CIT(A) on the same day itself and uploaded at 3.45 pm.

5. We have heard the counsels for both the parties, perused the material placed on record. and the orders passed by the revenue authorities, we found that admittedly Ld. CIT(A) had given time to the assessee till 20.09.2024 to file required documents and it is also a admitted position that the entire documents were filed by

the assessee on 20.09.2024 itself. But the same were not considered by Ld. CIT(A) by holding that the said documents were not filed by the assessee till 2.30 pm on 20.09.2024. To our mind this cannot be a sole reason for not considering the documents filed by the assessee, in our view an opportunity of hearing has to be granted by the revenue authorities and the purpose of providing reasonable opportunity of hearing is not a '*mere formality*' and it has to be followed in '*letter and spirit*' by the quasi judicial authorities. On evaluating the notice issued by Ld. CIT(A), we found that no such time limit has been mentioned anywhere in the said notice. Therefore Ld. CIT(A) has wrongly considered 2.30 pm as the maximum time given to the assessee.

6. Be that as it may, keeping in view the above position in our mind, we are inclined to restore the matter back to the file of Ld. CIT(A) for fresh adjudication after considering the reply / documents filed by the assessee and after providing opportunity of hearing to the parties.

7. Before parting, we make it clear that our decision to restore the matter back to the file of Ld.CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

8. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 22.04.2025.

Sd/-
(OMKARESHWAR CHIDARA)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 22/04/2025

KRK, PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai