

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “E”, MUMBAI  
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER  
AND  
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 687/MUM/2025 (A.Y: 2018-19)**

**Mrs. Kalpana Khandelwal**  
C-225 Bonanza Industrial Estate, C-  
Ashok Road Kandivali East, Vs.  
Maharashtra – 400 101

**PAN: AAAAT0034A**

**(Appellant)**

**ITO Ward 42(1)(3),  
Kautilya Bhavan, 7<sup>th</sup> floor,  
BKC, Bandra, Mumbai**

**(Respondent)**

<b>Assessee Represented by</b>	<b>:</b>	<b>Shri Ravi Ganatra, Ld. AR</b>
<b>Department Represented by</b>	<b>:</b>	<b>Shri Biswanath Das, Ld. DR</b>
<b>Date of conclusion of Hearing</b>	<b>:</b>	<b>25.03.2025</b>
<b>Date of Pronouncement</b>	<b>:</b>	<b>17.04.2025</b>

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.):**

1. This appeal is filed by the appellant/assessee against the order of Learned Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the “CIT(A)”], passed under section 250 of the Income Tax Act, 1961 [hereinafter



referred to as “*the Act*”] dated 04.11.2024 for the A.Y. 2018-19, wherein the Ld. CIT(A) has dismissed the appeal ex parte as despite services of notice, the assessee failed to present its case before the Ld. CIT(A).

2. It was argued on behalf of the appellant/assessee that the notice issued by the Ld. CIT(A) were never received or served upon the assessee and as such they could not present its case before the Ld. CIT(A) who proceeded ex parte and decided the appeal on merit without giving effective opportunity of hearing to the assessee and as such the assessee was prevented from presenting its case before the Ld. CIT(A). Therefore, the impugned order suffers from illegality and liable to be set aside. The Ld. DR on the other hand supporting the judgment of the Ld. CIT(A) stating that there is no merit in the appeal and same is liable to be dismissed.

3. We have considered the rival submissions. Section 250 sub section 2(a) of “*the Act*” provides as under:

“Section 250 (2)      *The following shall have the right to be heard at the hearing of the appeal: -*

*a. The appellant, either in person or by an authorised representative;”*



4. It is evident from the provision that the hearing to be given is not a formality but an effective hearing is sine qua non for the purpose of upholding the principal of natural justice. We have examined the impugned order of the Ld. CIT(A) who observed as under: -

*During the course of appellate proceedings, the Appellant did not make any compliance to the Notices issued u/s 250 of the Act to the Appellant for hearing. The detailed chart regarding this is given as under-*

<i>Notice issued u/s 250</i>	<i>Issued date</i>	<i>Fixing for hearing</i>	<i>Remarks</i>
<i>ITBA/NFAC/F/APL_1/2024-25/1066566547 (1)</i>	<i>10.07.2024</i>	<i>17.07.2024</i>	<i>Remained uncomplied</i>
<i>ITBA/NFAC/F/APL_1/2024-25/1067008643 (1)</i>	<i>25.07.2024</i>	<i>01.08.2024</i>	<i>Remained uncomplied</i>
<i>ITBA/NFAC/F/APL_1/2024-25/1067389150 (1)</i>	<i>07.08.2024</i>	<i>14.08.2024</i>	<i>Adjournment Sought</i>
<i>ITBA/NFAC/F/APL_1/2024-25/1069336902 (1)</i>	<i>03.10.2024</i>	<i>10.10.2024</i>	<i>Adjournment Sought upto 25th October 2024</i>



*3.7 From the afore-mentioned discussion, it is clear that no written submissions have been made at appellate level. Therefore, it is stated that no useful purpose would be served by keeping the appeal pending and therefore the appeal is decided on the basis of documents available on record. There may be various reasons with the appellant to remain absent at the time of hearing. One of the reasons may also be a desire or absence of need to prosecute the appeal or inability to assist in the appellate proceeding in a proper manner or to take benefit of vagaries of law. However, the exact reasons for non-attendance/non-submission are only known to the appellant. The CIT (Appeal) can under such circumstances, invoke the inherent powers vested therein. These powers are embedded with certain inherent obligations also. One of such obligations is that the appellant must not be deprived of being heard. Therefore, the easiest way for appellant in this case was to furnish the written submission in support of grounds of appeal. But instead, the appellant in this case not only chose to ignore the date of hearing but even did not furnish any submissions.*

*3.8 Considering the above discussion and facts, it is clear that the appellant assessee is not pursuing its case on merits. In pursuance of its appeal the appellant assessee did not file any documents in support of its claim that why addition of Rs. 10,12,14,258/- is not sustainable. The appeal cannot be decided merely on the basis of grounds of appeals and statement of facts as no corroborative evidence of any kind has been submitted by the appellant assessee. Based on these observations the appeal filed by the appellant assessee is dismissed and the order of the AO is confirmed.*

*In result the appeal is hereby dismissed.*



5. It is thus evident from the contents of the impugned order extracted above that no effective opportunity of hearing has been given and there is no proof that the notice sent on various dates were duly served or brought to the notice of the appellant/assessee.
6. For these reasons, we are of the considered opinion that matter needs to be restored to the file of the Ld. CIT (A) for giving effective hearing to the assessee who shall present its case before the Ld. CIT(A) within 60 days. The impugned order is accordingly set aside and appeal filed by the assessee is allowed in above terms.
7. In the result, appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 17.04.2025.**

**Sd/-**

**(OM PRAKASH KANT)  
(ACCOUNTANT MEMBER)**

Mumbai / Dated 17.04.2025  
*Dhananjay, Sr.PS*

**Sd/-**

**(RAJ KUMAR CHAUHAN)  
(JUDICIAL MEMBER)**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT



**ITA No. 687/Mum/2025**  
**Mrs. Kalpana Khandelwal**

4. DR, ITAT, Mumbai
5. Guard file.  
//True Copy//

**BY ORDER**

**(Asstt. Registrar)**  
**ITAT, Mumbai**