

IN THE INCOME TAX APPELLATE TRIBUNAL  
Mumbai "A" Bench, Mumbai.

Before Shri Sandeep Gosain(JM) & Shri Prabhash Shankar (AM)

ITA No. 2618/MUM/2025 (Assessment Year : 2016-17)

Amit Ashok Thawani 20, Ashoora Mahal G Road, 93 Marine Drive Mumbai-400 002.	Vs.	DCIT, Circle 23(1) Mumbai
PAN : ACPPT1749L		
Appellant		Respondent

Assessee by	:	Shri H.S. Raheja
Revenue by	:	Shri Aditya Rai
Date of Hearing	:	02/06/2025
Date of pronouncement	:	11/06/2025

O R D E R

Per Sandeep Gosain (JM) :-

At the very outset, we noticed that the assessee was ex-parte before Ld. CIT(A). However, Ld. AR submitted before us that the assessee had already filed all the details and his submission before Ld. CIT(A) but instead of deciding on merits, Ld. CIT(A) has simply rejected the appeal of the assessee.

2. After having gone through the facts of the present case and also hearing parties at length, we noticed that although the assessee was ex-parte before Ld. CIT(A), but had already filed all the details and the documents vide its submission and in this regard our attention was drawn to Form No. 35, wherein at paragraph 11 the assessee has mentioned entire facts alongwith supportive documentary evidences. Therefore considering the said facts, we are of the view that Ld. CIT(A) was not expected to adopt a shortcut method and dismiss the appeal on account of non-prosecution, more particularly when the assessee had filed all required documents before him. Since, Ld. CIT(A) was under legal obligation to decide the appeal on merits as he does not have any power to dismiss the appeal for non-

prosecution as has been hold by Hon'ble Bombay High Court in the case of Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom) and also by the Coordinate Bench of ITAT in case titled Sundararaman Jayaraman Iyer (ITA No. 1399/Pun/2024 dated 28.8.2024).

3. Therefore, considering the totality of the facts and circumstances and also keeping in view of the decision mentioned above, we set aside the order passed by Ld. CIT(A) and restore the matter back to the file of Ld. CIT(A) for deciding the appeal of the assessee on merits. Needless to mention after providing fair opportunity of hearing to the assessee. The assessee shall not seek adjournment on frivolous grounds and shall remain cooperative during the course of proceedings.

4. Before parting, we make it clear that our decision to restore the matter back to 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 Ld. CIT(A) independently in accordance with law.

5. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 11/06/2025.

Sd/-  
(PRABHASH SHANKAR)  
ACCOUNTANT MEMBER

Sd/-  
(SANDEEP GOSAIN)  
JUDICIAL MEMBER

Mumbai; Dated: 11/06/2025

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

*PS*

BY ORDER,  
(Assistant Registrar)  
ITAT, Mumbai