

**आयकरअपीलीयअधिकरण, रायपुर न्यायपीठ, रायपुर**

**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**

श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्रीअरुण खोड़पिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं. / ITA No: 193/RPR/2025**

(निर्धारण वर्ष Assessment Year: 2019-20)

Alok Buildtech Private Limited, Qtr No. 10, Kadambari Nagar, Durg-491001 (C.G.)	v s	Asst. Commissioner of Income Tax, Central Circle-1, CBD Building, Sector-21, Naya Raipur-492001 (C.G.)
<b>PAN: AAOCA5812F</b>		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	Shri Nilesh Jain, CA & Shri Jay Juneja, CA
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	25.06.2025
घोषणा की तारीख / Date of Pronouncement	:	27.06.2025

**आदेश / ORDER**

**Per Arun Khodpia, AM:**

The captioned appeal instituted by the assessee is directed against the order of the Commissioner of Income Tax (Appeal), Raipur-3, [in short "Ld. CIT(A)"], passed on 18.02.2025, u/s 250 of the Income Tax Act, 1961 (in short "the Act"), for the Assessment Year 2019-20, which in turn arises from the order of Assistant Commissioner of Income Tax, Central Circle-1, Raipur (in short "Ld. AR"), u/s 143(3) of the Act, dated 30.09.2021.

**2.** The grounds of appeal raised by the assessee are as under:

- 1) *In the facts and circumstances of the case and in law the Id. Commissioner of Income-tax (Appeals) (NFAC) has erred in deciding the appeal ex-parte without proper service of the notice as per provisions of the Act despite Appellant opting out for service of notice u/ s.250 of the Income-tax Act, 1961 through email by stating "No" in relevant column of Form 35 and without following the principles of natural justice.*
- 2) *In the facts and circumstances of the case and in law, learned Commissioner of Income Tax (Appeals), NFAC has erred in upholding order of learned Assessing Officer making addition of Rs.75,33,583/- as unrecorded investment without considering assessment records, without observing the principles of natural justice and without allowing reasonable opportunity to the appellant to explain his case.*
- 3) *The impugned order is bad in law and on facts.*
- 4) *The appellant reserves the right to addition, after or omit all or any of the grounds of appeal in the interest of justice.*

**3.** Concisely stated, the assessee is a private limited company, derives income from civil construction work and engaged in construction of buildings, road projects and bridges, have filed Return of Income for AY 2019-20 on 31.10.2019, declaring total income of Rs. 5,49,25,240/-. The case of assessee was selected for scrutiny on the basis of survey conducted on 20.02.2019. Statutory notices, u/s 143(2) dated 22.09.2019 was issued. Subsequently, notice u/s 142(1) of the Act along with questionnaire was issued and served upon the assessee. In response to the said notices, the assessee furnished requisite submission and supporting documents through ITBA portal. After deliberations upon the submission of the assessee, Ld. AO observed that the total additional income agreed to be surrendered by

the assessee during the survey was Rs.2,23,46,148/-. However, the assessee had included only Rs.1,48,12,565/- under the head 'other income' while declaring the same, therefore, there was a difference of Rs.75,33,583/- which is added back to the income of the assessee.

4. Aggrieved with the aforesaid addition, the assessee preferred an appeal before the First Appellate Authority, however, the appeal of the assessee has been dismissed by the Ld. CIT(A) on *ex-parte* basis. The observations of Ld. CIT(A) highlighting non-compliance by the assessee during the appellate proceedings, are extracted as under:

*Being aggrieved with the assessment order, the appellant has preferred appeal which is under consideration.*

*During the course of appeal proceedings, several notices u/s 250 were issued but the assessee firm never filed any evidence in support of issues raised in appeal. Last notice u/s 250 was issued on 09.07.2024 and hearing was fixed on 15.07.2024 but the assessee company did not submit any further reply in support of appeal. Therefore, it is held that the assessee company has no interest in this appeal.*

*Three notices are issued but the assessee company did not file any submission in support of the grounds raised in the appeal.*

*The details of 03 notices issued to the assessee company as reproduced here in below:*

<i>Sr. No.</i>	<i>Notice issued under Section</i>	<i>Date of notice</i>	<i>Hearing Date</i>	<i>Remarks</i>
1.	250 of I. T. Act, 1961	11.11.2022	21.11.2022	No reply
2.	250 of I. T. Act, 1961	22.09.2023	12.10.2023	No reply
3.	250 of I. T. Act, 1961	09.07.2024	15.07.2024	No reply

*The assessee company has failed to submit any evidence in support of its appeal despite given several opportunities being heard. Under these circumstances, in my opinion the appellant is not interest in the appeal.*

5. Being the appeal of assessee has been dismissed by the First Appellate Authority, the assessee preferred an appeal before this tribunal, which is under consideration for the present matter.

6. At the outset, Ld. AR of the assessee submitted that the reason for non-compliance before the Ld. CIT(A) was that the assessee had preferred delivery and notices and communication other than by way of email, therefore, the Form 35 furnished before the First Appellate Authority, assessee opted 'No' towards the column '*whether notices / communication may be sent on email?*'. Accordingly, the assessee was unaware about the notices issued, therefore, no compliance could be made before the First Appellate Authority. It was the submission that assessee's non-representation before the First Appellate Authority was on account of Bonafide reasons beyond the control of assessee and, there was no intentional avoidance at the end of assessee, thus, the dismissal of assessee's appeal was representing the contravention of principle of natural justice. It was therefore the prayer by Ld. AR that the matter may

kindly be restored back to the file of Ld. CIT(A), with a last and final opportunity to the assessee to represent its case and make necessary submissions.

**7.** Per contra, Ld. Sr. DR, vehemently supported the order of revenue authorities, however, had not objected to the request of assessee to restore the matter back to the file of Ld. CIT(A).

**8.** Considering the aforesaid facts and circumstances, after hearing both the parties, we find that the assessee before the First Appellate Authority was under impression to receive the notices through physical mode, as it had opted 'No' towards the communications through email, further, the revenue before us is unable to produce any proof that the notices or communication are served to the assessee by way of any other mode other than by way of email. Considering such factual aspect, we find substance in the submission by the Ld. AR, accordingly, as concede by both the parties, it would be fair in the interest of justice to restore this matter back to the file of Ld. CIT(A) for allowing one more opportunity to the assessee to represent its matter and to decide the appeal afresh.

**9.** Needless to say, the assessee shall be afforded with reasonable opportunity of being heard in the set aside appellate proceedings. The assessee as agreed is directed to cooperate and to assist proactively in the

set aside proceedings, failing which the Ld. CIT (A) would be at liberty to decide the case in accordance with the mandate of law.

10. In result, appeal of the assessee is **allowed for statistical purposes**, in terms of over aforesaid observations.

Order pronounced in the open court on 27/06/2025.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ARUN KHODPIA)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**रायपुर/Raipur; दिनांक Dated 27/06/2025**  
Vaibhav Shrivastav

**आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant- Alok Buildtech Private Limited
2. प्रत्यर्थी/ The Respondent- ACIT, Central Circle-1, Raipur
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR, ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, रायपुर/ITAT, Raipur