

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH MUMBAI**

**BEFORE HON’BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 2019/Mum/2025  
(Assessment Year: 2012-13)**

Manish Nanalal Dudhaiya 10, Chinar Society Ambarnath, Thane, Kulgaon SO, 421503	Vs.	ITO – 2(2) 2 <sup>nd</sup> Floor Wayle Nagar Mohan Plaza, Khadakpada kalian
PAN/GIR No. AIBPD6371L		
(Applicant)		(Respondent)

Assessee by	None
Revenue by	Shri Annavaram Kosuri, Sr. AR

Date of Hearing	16.07.2025
Date of Pronouncement	24.07.2025

आदेश / ORDER

**PER SANDEEP GOSAIN, JM:**

The present appeal has been filed by the assessee challenging the impugned order dt. 28.12.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2012-13.

2. Neither the assessee nor his representative appeared when the case was called repeatedly. From the records we noticed that assessee is in the habit of non compliance

even before the AO and as well as Ld. CIT(A) and because of this reason the appeal of the assessee has also been dismissed by Ld. CIT(A). We also noticed that as per the endorsement made by the registry notice of hearing was sent to the assessee through e-mail as well and through RPAD, but even then non appeared on behalf of the assessee, no application for seeking adjournment has been filed.

3. On the other hand, Ld. DR present in the court is ready with the arguments. Therefore considering the non cooperative conduct of the assessee, we have decided to proceed with the hearing of the case ex-parte.

4. After hearing Ld. DR and evaluating the record, we found that information was available with the income tax department to the effect that assessee had made cash deposit of Rs. 34,50,000/- in the HDFC bank Ltd and also made transactions on commodity exchange amounting to Rs. 63,12,137/- during the year under consideration. On verification, it was noticed by the department that the assessee had not filed his return of income thereby not disclosing any income for the relevant period. Therefore in order to ascertain the source of cash deposit and transaction made in commodity exchange, the assessee was provided adequate opportunity by the AO but still assessee did not cooperate and not filed any documentary

evidences. Therefore assessment was completed based on “*best judgment assessment*” u/s 144 of the Act on the basis of information available on record.

5. Against the said order of assessment although the assessee preferred an appeal before Ld. CIT(A), but did not comply with the mandatory provisions of Sec. 249(4) of the Act and had not paid the amount equal to the amount of advance tax which was payable by him. Although the Ld. CIT(A) had provided sufficient opportunities but still assessee did not comply with the notices and fail to furnish any reply to the deficiency letters. Since the assessee had fail to fulfill the mandatory and essential conditions of admission of appeal before Ld. CIT(A) as per Sec. 249(4)(b) of the Act therefore the appeal filed by the assessee was dismissed as the same was found not eligible for admission.

6. Now even before us assessee had not appeared nor complied with the notice of hearing therefore considering the totality of the facts and the conduct of the assessee before the revenue authorities, we have no other option except to dismiss the present appeal filed by the assessee with a liberty that in case at a later stage if the assessee appears and satisfy the Tribunal that there was “sufficient cause” for his non appearance, then the Tribunal shall

made an order setting aside the ex-parte order passed by it.

7. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced in the open court on 24.07.2025

Sd/-

**(GIRISH AGRAWAL)  
ACCOUNTANT MEMBER**

Sd/-

**(SANDEEP GOSAIN)  
JUDICIAL MEMBER**

Mumbai, Dated 24/07/2025

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