

आयकर अपीलीय अधिकरण न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
“E” BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.4208/MUM/2025
निर्धारण वर्ष / Assessment Year :2020-21

HDFC Bank Limited (Successor to HDFC
Limited which in turn was a successor
to HDFC Investments Limited)
HDFC Bank House, Senapati Bapat Marg,
Lower Parel (W), Mumbai-400 013
PAN : AAACH2702H/AAACH1462L

.....अपीलार्थी / Appellant

बनाम / V/s.

The Deputy Commissioner of Income Tax,
Circle-2(3)(1), Mumbai

.....प्रत्यर्थी / Respondent

Assessee by : Shri Ketan Ved
Revenue by : Shri Hemanshu Joshi, Sr. DR

सुनवाई की तारीख / Date of Hearing :14.08.2025

घोषणा की तारीख / Date of Pronouncement : 20.08.2025

आदेश / ORDER

PER ARUN KHODPIA, AM:

The present appeal filed by the assessee is directed against the order passed by the Ld. CIT(Appeals)/NFAC, Delhi dated 13.11.2024 for the assessment year 2020-21 as per the following grounds of appeal:

“1. Re.: Dismissing the appeal filed b the Appellant Ex-Parte:

- 1.1. On the facts and in the circumstances of the case, and in the law, the Ld. Commissioner of Income-tax (Appeals) ("CIT(A)") erred in perfunctorily dismissing the appeal filed by the Appellant Ex-Parte without properly adjudicating the issues on its merits.
- 1.2. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in passing an Ex-Parte order in violation of principles of natural justice.
- 1.3. On the facts and in the circumstances of the case and the law prevailing on the subject, the Ex-Parte order passed by the Ld. CIT(A) is bad-in-law, illegal, arbitrary and void-ab-initio and hence ought to be struck down.

Without prejudice to the above,

2. Re.: Disallowance of deduction claimed under section 80G of the Act amounting to Rs.6,50,000

- 2.1. On the facts and in the circumstances of the case, and in law, the Ld. CIT(A) erred in confirming the action of the Assessing Officer in disallowing the deduction of Rs. 6,50,000/-claimed under section 80G of the Act without adjudicating the ground on the merits of the case.
- 2.2. On the facts and in the circumstances of the case, and in law, the Ld. CIT(A) erred in not appreciating that deduction under section 80G is available on contribution made towards Corporate Social Responsibility.

3. Re.: Interest under Section 234B of the Act

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3.1 On the facts and in circumstances of the case and in law, the CIT (A) has erred in confirming the ground of excess interest levied under section 234B of the Act of Rs. 1,420.

3.2 On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in not considering that the interest under section 234B of the Act has been incorrectly computed at Rs. 43,404 instead of Rs. 41,984 as per the return of income filed by the Appellant.

The Appellant craves leave W acid, alter, amend, substitute and / or modify in any manner, whatsoever all or any of the foregoing grounds of appeal at or before the hearing of the appeal.”

2. At the very outset, the Ld. Counsel for the assessee submitted that the Ld. CIT(Appeals)/NFAC has dismissed the appeal *in limine* due to non-prosecution without dealing with the merits of the case. In support of his aforesaid contention, the Ld. Counsel has referred to Para 4 of the Ld. CIT(Appeals)/NFAC order. It was submitted by the Ld. Counsel that one final opportunity may be provided to the assessee so that the assessee can represent its case on merits. For the sake of completeness, Para 4 of the Ld. CIT(Appeals)/NFAC order is culled out as follows:

“4. The appellant’s appeal was fixed for hearing on the following dates:

SL. No.	Date of Notice	Date of hearing	REMARKS
1.	18.04.2024	26.04.2024	No reply
2.	26.09.2024	03.10.2024	No reply
3.	28.10.2024	01.11.2024	No reply
4.	05.11.2024	11.11.2024	No reply

There was no compliance to above notices which were sent on the email id, registered under e-filing portal. Despite given

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repeated opportunities of being heard, there has been non compliance to the notices. It is apparent that the appellant is not interested in pursuing his appeal. In the absence of any submission from the appellant, the grounds of appeal are decided on merits on the basis of facts available on record.”

3. The Ld. Sr. DR has fairly conceded that the matter may be adjudicated *denovo* on merits before the first appellate authority providing one final opportunity to the assessee.

4. We have carefully considered the contents in the documents/material available on record, submissions of both the parties. As per the aforesaid examination of the entire spectrum of the matter in the interest of natural justice, we deem it fit and proper to provide one final opportunity to the assessee to represent its case on merits before the Ld. CIT(Appeals)/NFAC.

5. On a perusal of the order of the Ld.CIT(Appeals)/NFAC, it is observed that the Ld.CIT(Appeals)/NFAC dismissed the appeal of the assessee *in limine* for non-prosecution without dealing with the merits of the case. In our considered view, once an appeal is preferred before the CIT(Appeals), it becomes obligatory on his part to dispose off the same on merit and it is not open for him to summarily dismiss the appeal for want of prosecution. In fact, a perusal of Sec.251(1)(a) and (b), as well as the “Explanation” to Sec.251(2) of the Act reveals that the CIT(Appeals)

remains under a statutory obligation to apply his mind to all the issues which arises from the impugned order before him. As per the mandate of law the CIT(Appeals)/NFAC is not vested with any power to summarily dismiss the appeal on account of non prosecution. The aforesaid view is fortified by the judgment of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. PremkumarArjundasLuthra (HUF) (2017) 297 CTR 614 (Bom)**. In the aforementioned case the Hon'ble High Court had observed as under:

"8. From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Sec. 251(1)(a) and (h) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-s. (2) of [s. 251](#) of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under [s. 246A](#) of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non-prosecution of the appeal by the assessee. This is amply clear from the [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 251(2) of the Act which requires the CIT(A) to apply his mind to

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all the issues which arise from the impugned order before him whether or not the same has been raised by the appellant before him. Accordingly, the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act.”

6. Respectfully following the aforesaid order, we set-aside the order of the Ld. CIT(Appeals)/NFAC and remand the matter back to his file for *denovo* adjudication while complying with the principles of natural justice. At the same time, it is directed that this being the final opportunity, the assessee shall duly comply with the hearing notices from the Ld.CIT(Appeals)/NFAC, failing which an appropriate order would be passed in accordance with the mandate of law.

7. In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 20th August, 2025.

Sd/-
AMIT SHUKLA
(JUDICIAL MEMBER)

Sd/-
ARUN KHODPIA
(ACCOUNTANT MEMBER)

मुंबई/Mumbai; दिनांक / Dated : 20th August, 2025.

SB, Sr.PS (on Tour)

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

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. आयकरआयुक्त/The CIT, Mumbai
4. प्रधानआयकर आयुक्त/ Pr.CIT, Mumbai
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबईबेंच,

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मुंबई/DR, ITAT, Mumbai Benches, Mumbai.

6.गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

उप/सहायक पंजीकार)Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई/ ITAT, Mumbai.