

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "F" MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL (JUDICIAL MEMBER)
AND
SMT. RENU JAUHRI (ACCOUNTANT MEMBER)**

**ITA No. 4480/MUM/2025
Assessment Year: 2021-22**

Shri Jayant B. Shah,
C/o. G.P. Mehta & Co. CAS, 807,
Tulsiani Chambers, Nariman
Point,
Mumbai-400021.
PAN NO. AAOPS 8642 L
Appellant

Vs. The Asst. CIT Circle 2(1)(1),
Aayakar Bhavan, M.K. Marg,
Mumbai-400020.

Respondent

Assessee by : Mr. G P Mehta
Revenue by : Ms. Kavitha Kaushi, Sr. DR

Date of Hearing : 20/08/2025
Date of pronouncement : 29/08/2025

ORDER

PER RENU JAUHRI, AM

This appeal of the assessee is directed against order dated 29.02.2024 passed by the Ld. Additional/Joint Commissioner of Income-tax (Appeals), Prayagraj [hereinafter shall be referred as 'the Ld. CIT(A)'] for assessment year 2021-22, raising following grounds:

- 1. The orders passed by the learned lower authorities are bad in law and bad in facts*
- 2. The learned First Appellate Authority have grossly erred in passing ex-parte order, inasmuch as, the appellant had*



specifically requested for adjournment & said adjournment request was not declined.

3. *The Intimation issued u/s 143 (1) of the I. T. Act, 1961, is ab-initio void inasmuch as no notice (Intimation) in terms of First proviso to sec. 143 (1) (a) of the I. T. Act, 1961, was issued and served on the appellant.*
4. *The Intimation issued u/s 143 (1) of the I. T. Act, 1961, is ab-initio void inasmuch as impugned adjustment to total income is beyond the scope & ambit of section 143 (1) (a) of the I. T. Act, 1961.*
5. *The learned Assessing Officer has grossly erred in making an adjustment to returned income at Rs.33,72, 131/- on account of Long Term Capital Gain - No reason has been assigned for impugned adjustment.*
6. *The learned Assessing Officer has grossly erred in making an adjustment to returned income at Rs. 33,72, 131/- by recourse to sec. 50 C (1) even though the appellant had claimed the application of provisions of section 50 C (2) of the Act - No reason has been assigned for rejection of appellant's claim.*
7. *Having regard to the facts of the case, provisions of law and judicial propositions, impugned adjustment at Rs. 33,72, 131/- to returned income is unwarranted and uncalled for.*

2. Brief facts of the case are that the assessee filed return of income declaring income of Rs.65,52,150/- on 04.12.2021. Intimation u/s 143(1) was issued by the CPC on 28.12.2022 determining the income at Rs.99,24,290/-. The CPC made an adjustment to returned income by making addition of Rs.33,72,131/- after invoking provisions of section 50C of the Act. Since no opportunity was given to the assessee before making the adjustment, the assessee filed an appeal before the Ld. CIT(A) against the intimation u/s 143(1) of the Act. Three notices were issued by the Ld. CIT(A) to the assessee on 02.02.2024, 01.04.2025 and 08.04.2025. Since no reply was furnished by the assessee to



any of these notices, the Ld. CIT(A) dismissed the appeal ex-parte without examining the merits of the case.

3. Aggrieved with the order of the Ld. CIT(A), the assessee has preferred an appeal before the Tribunal.

4. We have heard the rival submissions and perused the relevant materials on record. It is seen that the Ld. CIT(A) has simply dismissed the appeal ex-parte without going into the merits of the grounds taken by the assessee. In the interest of justice, we deem it appropriate to restore the matter to Ld. CIT(A) for fresh adjudication on merits after giving proper opportunity to the assessee. The assessee is also directed to make requisite compliance before Ld. CIT(A).

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

Order pronounced in the open Court on 29/08/2025.

**Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER**

**Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 29/08/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

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



5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai