

**IN THE INCOME-TAX APPELLATE TRIBUNAL "C" BENCH,  
MUMBAI  
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI. ARUN KHODPIA, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No. 4058/MUM/2025  
(निर्धारण वर्ष / Assessment Year: 2014-15)**

<b>Priti Prajyot Potphode</b> Umber pada Wadare, Safale, Palghar 401102	<b>v/s.</b> <b>बनाम</b>	<b>Income Tax Officer</b> <b>Ward 3</b> Amba Wadi, Palghar, Maharashtra, Thane 401404
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AJHPM9841M</b>		
<b>Appellant/अपीलार्थी</b>	<b>..</b>	<b>Respondent/प्रतिवादी</b>

<b>निर्धारिती की ओर से /Assessee by:</b>	Shri Tanmay Phadke-Advocate
<b>राजस्व की ओर से /Revenue by:</b>	Shri. Virabhadra Mahajan, (SR DR)

<b>सुनवाई की तारीख / Date of Hearing</b>	09.09.2025
<b>घोषणा की तारीख/Date of Pronouncement</b>	10.09.2025

**आदेश / ORDER**

**PER ARUN KHODPIA, AM:-**

This appeal is filed by the assessee against the order of the National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 26.08.2024 for the assessment year 2014-15, which in turn arises from the order u/s. 143(3) of the Income-tax Act passed by Assessing Officer, NFAC, Delhi, dated 26.03.2021.

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

*"1. On the facts and circumstances of the case and in law, the National Faceless Appeal Centre/Commissioner of Income Tax (Appeals) [the learned Commissioner (Appeals)] erred in deciding the appeal ex-parte in violation of the principle of natural justice. Thus, the order dated 26.08.2024 may be set aside and the matter may be restored back to the file of the learned Commissioner (Appeals).*

2. Without prejudice to the above, on the facts and circumstances of the case and in law, the order dated 26.08.2024 as passed by the learned Commissioner (Appeals) is bad in law since it dismisses the appeal on the reason of non-prosecution and does not adjudicate on the grounds/additional grounds of appeal and the issues under consideration. The said order being in violation of the provisions of Section 250 and 251 of the Act and the decision of the Hon'ble jurisdictional Bombay High Court in "CIT vs. Premkumar Arjundas Luthra (HUF)- [2016] 69 taxmann.com 407 (Bombay)" may be quashed.

3. Without prejudice to the above, on the facts and circumstances of the case and in law, the addition of Rs.57,31,862/- as undisclosed income being unsustainable in law may be deleted.

*Miscellaneous ground:*

4. The Appellant craves leave to add, alter, rescind, or amend any of the above grounds of appeal.”

3. Brief facts of the case are that the assessee is an individual filed her return of income for A.Y 2014-15 on 22.11.2014 declaring income of Rs.11,24,610/-. The assessee is engaged in the business of sealing system that can prevent theft, tampering, adulteration and pilferage of material. The gross receipts of the assessee as per Form 26AS was of Rs.3,03,62,555/-whereas the gross receipts as per profit and loss account shown by the assessee was at Rs.2,12,65,589/-. During the course of assessment proceedings, assessee was asked to reconcile the said difference. The assessee filed reconciliation statement and also submitted that the same business was carried out in the name of private limited company floated by the assessee w.e.f. 01/10/2013 and that the Permanent Account Number(PAN) for the private limited company was not intimated properly to all the clients of the assessee. Hence, certain income had been reflected in the Form 26AS in the individual PAN of the assessee, whereas the corresponding income has been shown in the hands

of private limited company. The assessee even gave the list of names and addresses of the parties from whom monies were received both by him as well as private limited company before the assessing officer. The assessing officer sought to make verification of those parties by issuing notices u/s 133(6) of the Act. Some parties responded directly to the AO to the said notice which were duly accepted by the AO in the assessment proceedings. In respect of parties who did not respond, the AO disbelieved the explanation of the assessee and proceeded to make addition of Rs.57,31,862/- for the difference in gross receipts between the amount shown by the assessee and Form 26AS.

4. Aggrieved with the aforesaid assessment by the Ld. AO assessee preferred an appeal before Ld. CIT(A). However, before the First Appellate Authority the assessee was unable to made necessary compliances and representation. Accordingly, the order was passed by the Ld. CIT(A) on ex-parte basis. Ld. AR also submitted in the grounds itself that there was no decision by the Ld. CIT(A) on merits of the issues the appeal of the assessee has been dismissed only for the reason of non-prosecution therefore following the principal of laid down by the Hon'ble Mumbai High Court in the case of ***CIT vs. Premkumar Arjundas Luthra (HUF)- [2016] 69 taxmann.com 407 (Bombay)***, the order of Ld. CIT(A) is liable to be set aside for adjudication of the issues on merits.

5. Per contra Ld. SR DR supported the order of Ld. CIT(A) however, if the same is set aside for fresh adjudication he did not objected to.
6. We have heard the rival submissions and perused the material available on record and case law riled upon by the assessee. Admittedly, in present case the order passed by Ld. CIT(A) is an *ex-parte* order, without any adjudication on merits. Further as fairly conceded by both the parties that appeal of assessee has been dismissed for non-prosecution by the Ld. CIT(A), we find it appropriate to set aside the order of Ld. CIT(A) and restore the mater back to his file for fresh adjudication, with reasonable opportunity of being heard to the assessee.
7. In the result, appeal of the assessee is allowed for statistical purposes, in terms of our aforesaid observations.

Order pronounced in the open court on 10.09.2025.

Sd/-  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

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

Place: मुंबई/Mumbai  
दिनांक /Date 10.09.2025  
Divya R. Nandgaonkar  
Stenographer

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.

3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,  
Mumbai
5. गार्ड फाईल / Guard file.

**सत्यापित प्रति //True Copy//  
आदेशानुसार/ BY ORDER,**

**सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण/ ITAT, Bench,  
Mumbai.**