

**IN THE INCOME TAX APPELLATE TRIBUNAL,
NAGPUR BENCH "SMC", NAGPUR**

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.271/NAG/2025
Assessment Year: 2015-16**

Mr. Ramkrushna Narayan Kanzode, Plot No 95, Near Jyoti Kirana, Sham Nagar, Hudkeshwar Road, Nagpur-440024. PAN: DPBPK6038B	Vs.	Income Tax Officer Ward 4(5) Nagpur BSNL Building Seminary Hills, Nagpur-440001.
(Appellant)		(Respondent)

Present for:

Assessee by : None
Revenue by : Shri Pankaj Kumar, Ld. D.R.

Date of Hearing : 24.06.2025
Date of Pronouncement : 18.09.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 27.02.2025, impugned herein, passed by the Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2015-16.

2. In the instant case, the Assessing Officer (AO) vide assessment order dated 28.12.2018 u/s 143(3) r.w.s. 153C of the Act, made an addition of Rs.34,77,643/- being disallowance on account of long term capital gain.

3. The Assessee, being aggrieved, though challenged the said addition by filing first appeal before the Ld. Commissioner, however, despite of sending various notices, made no compliance. Therefore, in the constrained circumstances, the Ld. Commissioner decided the

appeal of the Assessee on the basis of material available on record and ultimately dismissed the same and eventually affirmed the aforesaid addition made by the AO.

4. Though notice for the date of hearing on 24.06.2025 has been issued to the Assessee, however, the Assessee neither appeared nor filed any adjournment application. Thus, this Court is inclined to decide this appeal on the basis of material available on record. No doubt the Ld. Commissioner afforded 4 opportunities to the Assessee by issuing 4 notices in October and December 2024 and thereafter in January and February 2025. It is a fact that appeal against the assessment order dated 28.12.2018 was instituted on 31.01.2019 and there is nothing appearing in the impugned order as to what has happened in between and there is a huge gap in deciding the appeal filed by the Assessee. The Assessee otherwise has also claimed that he is an auto driver having education upto 7th class only and works for pick up and drop of school children from their school and back and the Assessee even does not have any email ID and not understand much about technology and that is why the Assessee sought for physical notice instead of sending notice by the Ld. Commissioner through email. And therefore the Assessee to the specific question whether communication may be sent on email, has replied with "NO". Therefore, the probability cannot be ruled out that the Assessee could not have received the notices issued by the Ld. Commissioner.

Thus considering the peculiar facts and circumstances in totality, for just and proper decision of the case, equitable relief, fair play and substantial justice, this Court is inclined to remand the instant case to the file of the Ld. Commissioner for decision afresh, suffice to say by affording reasonable opportunity of being heard to the Assessee.

5. Thus the case is remanded to the file of the Ld. Commissioner for decision afresh accordingly.

6. The Assessee is also directed to comply with the notices to be issued by the Ld. Commissioner and file the relevant submissions and documents as would be essentially required for proper and just decision of the case. This Court also clarifies that in case of subsequent default, the Assessee shall not be entitled for any leniency.

7. In the result, the Assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 18.09.2025.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Nagpur
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Nagpur.