

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.334/NAG/2024
(Assessment Year: 2015-16)**

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| Amogh Gajanan Sawant, 4, Adit Enterprises, Matrushakti Apartment, Vinayak Computer Accounting Services, Civil Lines, Behind Ranade Hospital, Yavatmal, Maharashtra. PAN: AJSPS 2953 H (Appellant) | Vs. | DCIT/ACIT, Circle-3, Nagpur. (Respondent) |
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Present for:

Assessee by : Shri Naresh Jakhotai, Ld. CA
Revenue by : Shri Surjit Kumar Saha, Ld. Sr.D.R.

Date of Hearing : 25.06.2025
Date of Pronouncement : 23.09.2025

O R D E R

This appeal has been preferred by the Assessee against the order dated 28/02/2024 impugned herein passed by the National Faceless Appeal Centre (NFAC)/Commissioner of Income Tax (Appeals), Delhi (in short, 'Ld. Commissioner') u/sec. 250 of the Income Tax Act, 1961 (in short, 'Act') for the A.Y. 2015-16.

2. In this case, an information was available with the Department that the Assessee had sold immovable properties worth Rs. 1,48,85,250/- during the assessment year under consideration and received Rs. 2,37,610/- as contract receipts, but has not filed original return of income. Therefore, the case of the Assessee on the aforesaid facts, was reopened by recording reasons for reopening u/sec. 147 of the Act and issuing notice dated 31/03/2022 u/sec. 148 of the Act. In response to which, the Assessee filed his return of income on dated 26/04/2022. Thereafter various statutory notices were issued, in response to which the Assessee filed his response. The Assessing Officer (AO), ultimately, vide assessment order dated 29/03/2023 u/sec. 147 r.w.s. 144B of the Act, made the additions of Rs. 6,96,000/- being business income on presumptive basis (8% of Rs. 87,00,000/-) and Rs. 2,37,610/- being business income, which was claimed as payment received towards share of common area maintenance charges.

3. The Assessee, being aggrieved, against the aforesaid additions, filed first appeal before the Ld. Commissioner, however, despite of issuing various notices, eventually made no compliance. Therefore, in the constrained circumstances, the Ld. Commissioner on the basis of material available on record, decided the appeal filed

by the Assessee as *ex-parte* and dismissed the same affirming the aforesaid additions.

4. The Assessee, being aggrieved, has preferred the instant appeal.

5. This Court has given thoughtful consideration to the peculiar facts and circumstances of the case. The Assessee before this Court has filed paper book containing various documents along with acknowledgments of submissions and documents on 14/11/2022 and 25/01/2023 before the Ld. AO, however, in the certificate mentioned that the aforesaid documents are part of the records of Ld. Ld. AO, as well as Ld. Commissioner. This Court further observes that the issues involved in the instant case also remained to be examined in its right perspective and proper manner specifically in absence of valid explanation/documents/ submissions /non-compliance with the notices issued by the authorities below, as it appears from the orders passed by the authorities below. However, at this stage, this Court is inclined not to go into the controversy, whether the Assessee has filed the documents before both the authorities below or not, but is of the considered opinion that the documents submitted by the Assessee before this Court, appears to be important and essential for adjudication of the issues involved. Thus, for just and proper decision of the case and

substantial justice, this Court is inclined to remand the instant case to the file of Ld. Commissioner for decision afresh, suffice to say by considering the documents to be filed by the Assessee, as filed before this Court, by giving reasonable opportunity of bearing heard to the Assessee.

6. The Assessee is also directed to comply with the notices to be issued and file relevant submissions/explanation and documents which are essential for proper and just decision of the case. It is hereby clarified that in case of subsequent default, the Assessee shall not be entitled for any leniency.

7. Thus, the case is remanded to the file of the Ld. Commissioner for decision afresh in the aforesaid terms.

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

Order pronounced in open court on 23.09.2025 as per Rule 34(5) of the Income Tax (Appellate Tribunal) Rules, 1963.

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

vr/-

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

//True Copy//

By Order

Senior Private Secretary
ITAT, Nagpur.