

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

BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER

**ITA No.256/NAG/2025
Assessment Year: 2017-18**

Mr. Rajkumar Bhaskarrao Agarkar Viduit Colony sati krupa Building, round road Kaulkhed, Akola-444001. PAN: ABBPA2942F	Vs.	ITO Ward 1 ITO Building, Akola-444001.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vishal Manakshay, CA
Revenue by : Shri Surjit Kumar Saha, Ld. D.R.

Date of Hearing : 27.06.2025
Date of Pronouncement : 24.09.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 24.02.2025, impugned herein, passed by the National Faceless Appeal Center (NFAC) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. Admittedly, in the instant case, the Assessee despite of sending various notices by the Ld. Commissioner in the appellate proceedings carried out against the assessment order dated 11.11.2019 u/s 143(3) of the Act, by which the addition of Rs.12,00,000/- on account of unexplained cash credit was made and added in the income of the Assessee, made no compliance and

therefore in the constrained circumstances, the Ld. Commissioner dismissed the appeal of the Assessee in limine but not on merit, hence such action of the Ld. Commissioner is not permissible, as per judgment in the case of Commissioner of Income Tax Vs. Premkumar Arjundas (HUF) ITA No.2336 of 2013 dated 25.04.2016 (2017) 297 CTR (Bom.) 614, by the Hon'ble jurisdictional High Court, wherein it has been held under:

*“That this is amply clear from section 251(1)(a) & (b) and explanation 2 to section 251(2) of the Act, which requires CIT(A) to apply his mind to 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 CIT(A) to dismiss the appeal for non-prosecution, as it is evident from the provisions of the Act”.***

Hence, this Court by respectfully following the aforesaid dictum laid down by Hon'ble High Court, is inclined to set aside the impugned order and consequently remanding the case to the file of the Ld. Commissioner for decision on merit, suffice to say by affording reasonable opportunity of being heard to the Assessee.

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

4. The Assessee is also directed to file the relevant submissions/documents as would be essentially required for proper and just decision of the case. It is clarified that in case of subsequent default, the Assessee shall not be entitled for any leniency.

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

Order is pronounced 24.09.2025 as per rule 34(5) of the Income Tax {Appellate Tribunal} Rule 1963.

**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.