

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.570/RPR/2025
निर्धारण वर्ष / Assessment Year: 2018-19**

Sant Harkewal Shikshan
Samiti, Namna Kala,
Surguja, Ambikapur,
Chhattisgarh, 497001
PAN: AAIAS1529F

.....अपीलार्थी / Appellant

बनाम / V/s.

Income Tax Officer-1,
Ambikapur, Income tax
Office, 1, Kharsiya Marg,
Near Ambika Petrol Pump,
Ambikapur, Chhattisgarh,
497335

.....प्रत्यर्थी / Respondent

Assessee by : Mr. G.S. Agrawal, CA.

Revenue by : Dr. Priyanka Patel, Sr.DR

सुनवाई की तारीख / Date of Hearing : 14.10.2025

घोषणा की तारीख / Date of Pronouncement : 15.10.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 02.07.2025 for the assessment year 2018-19 as per the grounds of appeal on record.

2. At the outset, it is noticed that an *ex-parte* order had been passed by the Ld. CIT(A)/NFAC and the relevant paragraphs are extracted as follows:

“4. *Proceedings:*

Notice u/s 250 of the I.T. Act was issued to the appellant on 17/02/2025, 19.03.2025, 13.05.2025 & 23.05.2025 to furnish the details by 24/02/2025, 07/04/2025, 20/05/2025 & 30/05/2025 respectively. But no submission/response has been received. Sufficient opportunity has been provided to the appellant.

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5.1 *By its own act, the appellant has failed to remain vigilant and did not avail the opportunity to submit its point of view/contention, as it did not respond to various notices issued. The fact that the appellant did receive the order filed the present appeal, but chose not to respond to any of the notices issued by this office clearly establish total disregard to the due process of law. Therefore, the conclusion*

that the appellant could not controvert the findings given by the AO on merits of the issue either is inescapable.

5.2 *In view of the above, I am of the considered view that no inference is called for to the impugned order passed u/s 147r.w.s.144B of the Act, and accordingly, the grounds of appeal of the appellant are "Dismissed".*

6. *The appeal of the appellant, is accordingly dismissed."*

3. The appeal of the assessee has been dismissed *in limine* by the Ld. CIT(A)/NFAC on the ground of non-prosecution. It is clear that sufficient opportunities were provided to the assessee, however, there was no compliance. At the same time, as mandated by the decision of the **Hon'ble High Court of Bombay** in the case of **CIT Vs. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom).**, the appellate authority must address the merits of each of the ground of appeal and cannot dismiss the appeal *in limine* for non-prosecution. A *quasi judicial* authority must record its finding on the basis of assessment order and the statement of facts and grounds of appeal, if no submission has been placed on record. But, it is not open to the CIT(A)/NFAC for dismissing the appeal of the assessee *in limine* for non-prosecution without addressing the merits of the case. The relevant extract of the referred judgement (supra) is as follows:

"8. From the aforesaid provisions, it is very clear once an appeal is preferred before the CIT(A), then in disposing of the appeal, he is obliged to make such further inquiry that he thinks fit or direct the AO to make further inquiry and report the result of the same to him

as found in Sec. 250 of the Act. Further, Sec. 250(6) of the Act obliges the CIT(A) to dispose of an appeal in writing after stating the points for determination and then render a decision on each of the points which arise for consideration with reasons in support. Sec. 251(1)(a) and (h) of the Act provide that while disposing of appeal the CIT(A) would have the power to confirm, reduce, enhance or annul an assessment and/or penalty. Besides Explanation to sub-s. (2) of [s. 251](#) of the Act also makes it clear that while considering the appeal, the CIT(A) would be entitled to consider and decide any issue arising in the proceedings before him in appeal filed for its consideration, even if the issue is not raised by the appellant in its appeal before the CIT(A). Thus once an assessee files an appeal under [s. 246A](#) of the Act, it is not open to him as of right to withdraw or not press the appeal. In fact the CIT(A) is obliged to dispose of the appeal on merits. In fact w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO to not complete the assessment by allowing the assessee to withdraw its return of income, it is not open to the assessee in appeal to withdraw and/or the CIT(A) to dismiss the appeal on account of non-prosecution of the appeal by the assessee. This is amply clear from the [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 251(2) of the Act which requires the 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 the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act.”

4. Respectfully following the aforestated judicial pronouncement, the order of CIT(A)/NFAC is set aside and the matter is remanded back to its file for *de novo* adjudication on merits while complying with principles of natural justice. At the same time, the assessee is directed to represent its case on merits before the first appellate authority, since it is a final opportunity provided to the assessee.

5. As per the above terms, the grounds of appeal stands allowed for statistical purposes.

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

Order pronounced in open court on 15th day of October, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)
न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 15th October, 2025.
HKS, PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

//True copy//

Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur