

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'D' BENCH, KOLKATA**

Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. No.: 1230/KOL/2025
Assessment Year: 2015-16**

Sarang Dealcom Pvt. Ltd. <i>(Appellant)</i>	Vs.	I.T.O., Ward-4(3), Kolkata <i>(Respondent)</i>
PAN: AAPCS1410C		

Appearances:

Assessee represented by : Ashok Barnwal, AR.

Department represented by : Madhumita Das, Addl. CIT.

Date of concluding the hearing : 07-August-2025

Date of pronouncing the order : 29-October-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2015-16 dated 08.03.2024, which has been passed against the assessment order u/s 147 r.w.s. 144 r.w.s. 144B of the Act, dated 08.05.2023. During the course of hearing before us, the assessee filed an adjournment application. Since the adjournment was not on sufficient ground, therefore, the same was rejected and the appeal was heard.

1.1. The Registry has informed that the appeal is barred by limitation by 369 days. The assessee submitted that neither the order was received



on its e-mail nor any physical copy was sent to the address provided and the assessee came to know about the order while checking the IT portal for ITR related matter and due to this there is delay in filing of the appeal. After perusing the same, we find force in the reasons mentioned therein and are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

"1. For that the Honourable Commissioner of Income Tax (Appeal) faceless has erred in by not deleting the adding of Rs. 80,50,000/- added by the Ld. A.O as unexplained cash credit though all the details Like Sale Bill, Bank Statement, Resolution for dealing in shares, holding of shares in the company etc. were provided during the course of hearing before the Ld. A.O. Hence this bogus addition should be deleted.

2. For That the Appellant prays that the addition of Rs. 80,50,000/- made u/s 68 by the Ld. A.O. and confirmed by the Honorable CIT (Appeal) amounting to Rs 80,50,000/- should be deleted as this is nothing but the sale of shares held by the company and reflected in the Balance Sheet.

3. For that the appellant craves leave to add/alter/amend/delete/any other ground/grounds/on or before the hearing of the appeal to add further elucidation to any or all of the grounds which may be submitted on or before the hearing of the appeal."

3. Brief facts of the case are that an information was received that M/s. Shiv Shakti Trading, a Proprietorship concern had opened a current account with Axis bank and the amount so deposited in the account was transferred to the account of different beneficiaries. These were operator-driven transactions which resulted into entries received by the beneficiary companies in their books of account. For obtaining entries in the books, the beneficiary provided cash to the operator which



was deposited in the individual or dummy proprietorship accounts followed by transfer to accounts of different concerns. There were no actual business transactions, but only funds of undisclosed money were shifted by layering of various entities for evading tax. The assessee was one of the beneficiaries and had received a sum of ₹80,50,000/-. Accordingly, proceedings u/s 147 of the Act were initiated and notices under the relevant provisions of the Act were issued to the assessee. In response thereof, the assessee submitted part submission which was considered and perused by the Assessing Officer (hereinafter referred to as Ld. 'AO') but not found tenable. The Ld. AO found that the assessee had received a sum of ₹35,00,000/- from Diagram Dealers Pvt. Ltd. and ₹45,50,000/- from Avlokan Vintrade Pvt. Ltd. during the year under consideration and these were shell companies who had no actual business. The companies were struck off by the ROC and had no financial creditworthiness. The said companies had received funds from Raja Roy, Prop. of Shiv Shakti Trading Co. amounting to ₹37,53,14,463/- and Raja Roy Prop. of Shiv Shakti Trading Co. had failed to substantiate the source of funds received in his bank account. The bank account of Diagram Dealers Pvt. Ltd. and Avlokan Vintrade Pvt. Ltd. was used to provide accommodation entries to various beneficiaries. Therefore, an amount of ₹80,50,000/- received from shell companies remained unexplained in the absence of satisfactory explanation and the same was added to the total income of the assessee u/s 68 of the Act. Accordingly, the Ld. AO assessed the total income of the assessee at ₹80,62,620/- u/s 147 r.w.s. 144 r.w.s. 144B of the Act. Aggrieved with the assessment order, the assessee filed an appeal before the Ld. CIT(A) who vide his order dated 08.03.2024 dismissed the appeal of the assessee by holding as under:



*“The facts of the case as noted above are that the appellant has not pursued the appeal despite being granted opportunities as elaborated above. **No details, documents or submissions have been provided to come to any conclusion other than those arrived at by the assessing officer in the assessment order. During the appellate proceedings the appellant was given opportunities to put forth his case, but he did not upload any response despite service of notice(s). Considering all the facts and the circumstances of the case no interference with the assessment order of the AO is called for. The appellate proceedings cannot be allowed to be held hostage by dilatory tactics on the part of the appellant and a complete disdain for statutory notices. Therefore, I find no infirmity in the assessment order passed by the assessing officer u/s 147 r.w.s 144 of the I.T. Act, 1961 dated 08.05.2023.***

8. In the result, the appeal is dismissed.”

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. Rival contentions were heard and the submissions made have been examined. The Ld. AR submitted that proper opportunity was not provided by the Ld. CIT(A). The Ld. DR relied upon the order of the Ld. CIT(A) and requested that the same may be upheld.

6. We have considered the submissions made, gone through the facts of the case and perused the record and the order of the Ld. CIT(A). We note that section 250(6) casts a duty on the Ld. CIT(A) to pass an order in appeal which should state the points for determination and a decision as well as the reason for arriving at such decision. The provisions of section 250(6) are reproduced as under:

“250(6) – The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.”

7. A perusal of the appellate order shows that while the Ld. CIT(A) has discussed non-compliance on the part of the assessee as the notices sent were not complied with but he has not adjudicated the appeal on



merit. The Ld. CIT(A) upheld the view of the AO and has not passed a reasoned order for arriving at the decision, as is required u/s 250(6) of the Act. We further note that in **Ajji Basha Vs. CIT (2019) 111 taxmann.com 348 (Madras)** it has been held that a speaking order on merits with reasons and findings is to be passed by Commissioner (Appeals) on basis of ground raised in assessee's appeal; he cannot dispose the assessee's appeal merely by holding that the Assessing Officer's order is a self-speaking order which requires no interference. The relevant extract from the order is as under:

6. ... The first respondent is the appellate authority. Needless to state that the Appellate Authority is also a fact finding authority and therefore, he has to consider the order of assessment on the grounds raised in the appeal and thereafter, pass a speaking order on merits and in accordance with law by giving his own reasons and findings as to whether the order of assessment can be sustained or not. In other words, the order passed by the Appellate Authority should explicitly exhibit his application of mind to the facts and circumstances and the objections raised in the grounds of appeal, also by expressing his reasons and findings in support of his conclusion.

7. In this case, the Appellate Authority, after extracting the order of the Assessing Officer in full, has not given any other reason or finding to dismiss the appeal except by stating that he is of the considered view that the Assessing Officer's order is a self speaking order and does not call for any interference. In my considered view, such single line finding of the Appellate Authority, cannot be sustained as a proper exercise of the Appellate Authority, while disposing the appeal. Therefore, it is apparent that the order impugned in this writ petition is an outcome of total non-application of mind. Consequently, the impugned order cannot be sustained. It is further contended that before passing the order, the petitioner was not heard.

8. It has also been held in the case of **Commissioner of Income-tax (Central) Nagpur v. Premkumar Arjundas Luthra (HUF) [2016] 69 taxmann.com 407 (Bombay)** after discussing the provisions of sections 250(1) and 251(1) that the law does not empower the CIT(A) to dismiss the appeal for non-prosecution as is evident from the provisions of the Act. The relevant extract is as under:



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 Assessing Officer to make further inquiry and report the result of the same to him as found in Section 250(4) of the Act. Further Section 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. Section 251(1)(a) and (b) 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-section (2) of Section 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 Section 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 with effect from 1st June, 2001 the power of the CIT(A) to set aside the order of the Assessing Officer and restore it to the Assessing Officer for passing a fresh order stands withdrawn. Therefore, it would be noticed that the powers of the CIT(A) is co-terminus with that of the Assessing Officer i.e. he can do all that Assessing Officer could do. Therefore just as it is not open to the Assessing Officer 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 Section 251(1)(a) and (b) and Explanation to Section 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.

9. After examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal to the Ld. CIT(A) for disposal of the grounds of appeal taken by the assessee on merit by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the



grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 29th October, 2025.

Sd/-

[George Mathan]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 29.10.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Sarang Dealcom Pvt. Ltd., C/o. M/s. Marodia Khanna & Associates, 62, Bansdroni Govt. Colony, 3rd Floor, Kolkata, West Bengal, 700070.**
2. **I.T.O., Ward-4(3), Kolkata.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata