

**IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH "SMC" SURAT**

**BEFORE SHRI SANDEEP GOSAIN (JUDICIAL MEMBER)
AND
SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)**

**ITA No. 647/SRT/2025
Assessment Year: 2019-2020**

Pannalal Rampher Yadav,
Dayat Falia, Silvassa-396230.

**PAN NO. ACAPY 5557 C
Appellant**

ITO
Vee Bee Mall, Near Civil Court,
Silvassa-396230.

Vs.

Respondent

Assessee by : Mr. Parin Shah, CA
Revenue by : Mr. J.K. Chandnani, Sr. DR

Date of Hearing : 09/10/2025
Date of pronouncement : 30/10/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 06.02.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short 'the Ld. CIT(A)'] for assessment year 2019-2020, raising following grounds :

1. *The order passed by the lower authorities is invalid, bad in law and required to be quashed.*
2. *Ld. NFAC erred in law and on facts in confirming addition of Rs.2811341 u/s 69A of the Act ignoring submission of the appellant.*



3. *Ld. NFAC ought to have pass an order as per the provision u/s 250(6) of the Act rather than dismissed the same on limine.*

2. At the very inception of the hearing, the learned Counsel for the assessee adverted to a delay of thirty-six days in the filing of the present appeal, as noted by the Registry. The learned Counsel, inviting our attention to the deposition of the assessee placed on record, submitted that owing to his advanced age and attendant medical ailments, the assessee was unable to attend to his office matters regularly, and, as a result, remained unaware of the order passed by the learned Commissioner of Income-tax (Appeals). It was only upon his counsel's subsequent verification of the e-proceedings portal that the existence of the said order came to his notice.

2.1 Upon consideration of these submissions and the material before us, we are satisfied that the assessee was prevented by a sufficient and bona fide cause from filing the appeal within the prescribed period of limitation. The delay being neither deliberate nor contumacious, but occasioned by circumstances beyond the assessee's control, we deem it fit, in the interest of substantial justice, to condone the delay of thirty-six days. The appeal is accordingly admitted for adjudication.

3. On perusal of the record, it transpires that the assessee did not respond to the notices of hearing issued by the learned Commissioner (Appeals), who consequently dismissed the appeal in



default. The relevant extract from the impugned appellate order records that several notices were duly issued and served through the registered e-mail address of the assessee, but no response was forthcoming. The learned Commissioner (Appeals), therefore, concluded that the non-appearance was deliberate and that the assessee was not interested in pursuing his appeal. The learned Commissioner (Appeals) placed reliance upon the decisions of the Hon'ble Supreme Court in *CIT v. B.N. Bhattacharjee & Another* [(1979) 118 ITR 461 (SC)], the Hon'ble Madhya Pradesh High Court in *Estate of Late Tukojirao Holkar v. CWT* [(1997) 223 ITR 480 (MP)], and the decision of the ITAT Delhi Bench in *CIT v. Multiplan India (P) Ltd.* [(1991) 38 ITD 320 (Del.)], and dismissed the appeal accordingly. The relevant finding of the Ld. CIT(A) is reproduced as under:

4. Several notices were issued giving opportunities of being heard to the appellant, which were duly served upon the appellant through registered email. No response is received till date. The particulars of notices issued are as under:

Sr. No.	Date of Notice	Date of hearing	Remarks
1	22.04.2024	03.05.2024	Delivered on the registered e-mail address given by the appellant, but no response received.
2	12.12.2024	17.12.2024	Delivered on the registered e-mail address given by the appellant, but no response received.
3.	27.12.2024	03.01.2025	Delivered on the registered e-mail address given by the appellant, but no response received.



4	14.01.2025	21.01.2025	Delivered on the registered e-mail address given by the appellant, but no response received.
5	28.01.2025	03.02.2025	Delivered on the registered e-mail address given by the appellant, but no response received.

4.1 In view of the above, it appears that the non-appearance to notices is deliberate as all the notices have been duly served upon the appellant on the registered email account. No response has been received from the appellant till date. It is reasonable to infer from the continued non-compliance that the appellant is not serious to pursue its appeal.

4.2 Hon'ble Supreme Court in the case of CIT vs. B.N. Bhattacharjee and Another, 118 ITR 461 (SC) observed that preferring an appeal means more than formally filing it but effectively prosecuting it. Hon'ble M.P. High Court in the case of Estate of Late Tukojirao Holkar vs. CWT, (1997) (223 ITR 480) (M.P.) dismissed the reference in default and for not taking necessary steps. Similar view has been taken by I.T.A.T. Delhi Bench in the case of CIT Vs. Multiplan India (P) Ltd. (1991) (38 ITD 320). Considering the above, it appears that the appellant is not interested in prosecuting its appeal. However, going on merits and facts available on record, I find no infirmity in the action of the Assessing Officer. Hence, there is no occasion for interfering with the same.”

3.1 Having carefully considered the matter, we are constrained to observe that, under the mandate of Section 250 of the Income-tax Act, 1961, the first appellate authority is required to dispose of the appeal by passing a reasoned and speaking order on the merits of the case, even in the event of non-appearance by the appellant. The dismissal of an appeal for want of prosecution, without adjudicating upon the merits, does not accord with the letter and spirit of the statute.

3.2 In the present case, the learned Commissioner (Appeals) has confined himself to the default of appearance without undertaking



any discussion of the issues arising from the assessment order. We are, therefore, of the considered view that the ends of justice would be better served if the matter is remitted to the learned Commissioner (Appeals) for a fresh adjudication on merits, after affording the assessee due opportunity of being heard.

3.3 Accordingly, the impugned order of the learned Commissioner (Appeals) is set aside. The matter is restored to his file with the direction to consider the assessee's submissions and to dispose of the appeal by a reasoned order in accordance with law. The assessee is also directed to ensure that his written submissions and supporting documents are filed within fifteen days of receipt of the first notice of hearing issued by the learned Commissioner (Appeals).

3.4 Accordingly, the ground No. 3 raised by the assessee is allowed and remaining grounds rare not adjudicated.

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

Order pronounced by way display of result on notice board on 30/10/2025 under Rule 34(4) of ITAT Rules, 1963.

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Dated: 30/10/2025



Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Surat
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Surat