

**आयकर अपीलीय अधिकरण, रायपुर न्यायपीठ, रायपुर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL RAIPUR BENCH, RAIPUR**  
श्री पार्थ सारथी चौधरी, न्यायिक सदस्य एवं श्री अरुण खोड़पिया, लेखा सदस्य के समक्ष ।  
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM & SHRI ARUN KHODPIA, AM

**आयकर अपील सं. / ITA No: 655/RPR/2025**  
(निर्धारण वर्ष Assessment Year: 2022-23)

Kiran Agrawal, E-489, Near Radha Krishna Mandir, Samta Colony, Raipur-492001, Chhattisgarh	v s	Income Tax Officer, Aayakar Bhawan, Shankar Shah Marg, Haraftarai, Dhamtari-493773, Chhattisgarh
<b>PAN: AGXPA8417C</b>		
(अपीलार्थी/Appellant)	.	(प्रत्यर्थी / Respondent)
निर्धारिती की ओर से / Assessee by	:	None (Adjournment Petition filed)
राजस्व की ओर से / Revenue by	:	Dr. Priyanka Patel, Sr. DR
सुनवाई की तारीख / Date of Hearing	:	10.11.2025
घोषणा की तारीख / Date of Pronouncement	:	12.11.2025

**आदेश / ORDER**

**Per Arun Khodpia, AM:**

The captioned appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeal), NFAC, Delhi, [in short "Ld. CIT(A)"] passed under section 250 of the Income Tax Act, 1961 (in short "the Act"), dated 26.08.2025 for the Assessment Year 2022-23, which in turn arises from the assessment order dated 20.03.2024 passed u/s 143(3) r.w.s. 144B of the Act by Assessment Unit, Income Tax Department (in short "Ld. AO").

2. The grounds of appeal raised by the assessee are as under:

1. *That the ex-parte Appellate Order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, New Delhi ("the Ld. CIT(A)") under section 250 of the Act is highly unjustified, bad in law, without providing reasonable opportunity of being heard, against the principles of natural justice and not in accordance with the provisions of law. That the hearing notices u/s. 250 of the Act were issued/ sent to a different e-mail id (which the appellant does not have an access to) than that provided in the Appeal Memo filed in Form No.35 and only one notice of hearing was issued on the correct e-mail address of the appellant and hence, could not be complied, rather the appellant remained uninformed. Further, the Ld. CIT(A) has grievously erred in summarily dismissing the appeal by not rendering any decision on merits which is contrary to the law laid down by the **Hon'ble Bombay High Court** in the case of **CIT v. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom.)**. It is prayed that the Appellate Order passed under section 250 of the Act may please be cancelled/set-aside on this ground alone.*
2. *That the assessment order passed by the Ld. Assessing Officer, National Faceless Assessment Centre, New Delhi ("the Ld. AO") under section 143(3) r.w.s. 144B of the Act is highly illegal, bad in law, suffers from legal infirmities, vitiated, unsustainable and hence liable to be quashed on the count of this ground alone.*
3. *On the facts and circumstances of the case as well as in law, the Ld. CIT(A) has grievously erred in affirming the action of the Ld. AO in making an addition of Rs.38,74,920/- on account of purported bogus purchases and further, grossly erred in treating the 'expenditure' as unexplained cash credit within the meaning of section 68 of the Act. Further, the appellant had duly filed all the requisite details and information in respect of the alleged purchaser and merely for the reason that qualitative & quantitative details of goods traded were not furnished which were in fact very much available on record. Hence, such disallowance/ addition is highly unjustified, unwarranted, uncorroborated, untenable, not proper on facts of the case, based on conjectures & surmises and not in accordance with the provisions of law and it is requested that the same may please be deleted.*
4. *On the facts and circumstances of the case as well as in law, the Ld. CIT(A) has grievously erred in affirming the action of the Ld. AO in making an presumptive addition of Rs.4,87,318/- on account of purported variation in the net profit as compared to the preceding assessment year which is highly unjustified, unwarranted, uncorroborated, untenable, not proper on facts, based on conjecture & surmises and not in accordance with the provisions of law and it is requested that the same may please be deleted.*
5. *That the Appellant craves leave to add, amend, alter or delete all or any of the grounds of Appeal at the time of hearing of the appeal.*

3. At the outset, the assessee has submitted an application for adjournment seeking 15 days' time to prepare the paper book and relevant documents.

4. On perusal of the records and relevant facts of the case it is revealed that, the appeal of assessee before Ld. CIT(A) was decided on an *ex-parte* basis with no observation or decision on merits, as the assessee at appellate stage has not uploaded any submissions or documents. The appeal of the assessee has been dismissed *in limine* without considering the issues raised by the assessee on merits even by examining the facts and evidence available on record. This issue was raised by the assessee vide ground no. 1 of the present appeal that the Ld. CIT(A) has grievously erred in summarily dismissing the appeal by not rendering any decision on merits which is contrary to the law laid down by the **Hon'ble Bombay High Court** in the case of **CIT v. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom.)**. Accordingly, it was the prayer that the impugned appellate order passed u/s 250 of the Act deserves to be cancelled / set aside.

5. This very issue regarding dismissal of appeal on account of non-prosecution was confronted to Ld. Sr. DR and was asked as to why the matter should not be restored back to the file of Ld. CIT(A) to adjudicate the issues afresh so as to comply with the mandate of section 250 of the Act. She conceded and agreed, accordingly, the matter qualify to be restored back to the file of Ld. CIT(A).

6. After having given a thoughtful consideration to the facts and circumstances in the matter, since the impugned order of Ld. CIT(A) has been passed without any pointing out the reasonings on the merits of the issue, whereas the appeal was dismissed *in limine*, only on the basis of assessee's default of non-prosecution. Accordingly, as requested by the assessee in ground no. 1 and fairly conceded by the revenue through Ld. Sr. DR, we find it appropriate to restore the present matter back to the file of Ld. CIT(A) for *denovo* adjudication of the issues raised herein. Our view is duly supported by the view taken by the Hon'ble **Hon'ble Bombay High Court** in the case of **CIT v. Premkumar Arjundas Luthra (HUF) (2017) 297 CTR 614 (Bom.)**, the relevant observations wherein are produced hereunder for the sake of reliance and applicability in the present case:

*".....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(l)(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 dear 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 dear from the Section 251(l)(a) and (b) and Explanation to Section 251(2) of the Act which requires the CIT(A) to apply his mind to at 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.”*

7. In view of aforesaid observations of the **Hon'ble Bombay High Court**, in absence of deliberation on the issues on its merits by the Ld. CIT(A) based on material available on record, in the interest of justice, without touching the issues raised by the assessee on merits, we find it appropriate to restore the present case back to the files of Ld. CIT(A) for fresh adjudication within 3 months from receipt of this order.

8. Needless to say, the assessee shall be afforded with reasonable opportunity of being heard in the set aside appellate proceedings. Since the issues are restored back to Ld. CIT(A) at the request of the assessee, it is incumbent upon her to cooperate and assist proactively in the set aside appellate proceedings, failing which the Ld. CIT(A) would be at liberty to decide the case in accordance with the mandate of law.

9. In result, appeal of the assessee is **allowed** for statistical purposes, in terms of over aforesaid observations.

Order pronounced in the open court on 13/11/2025.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**  
**(ARUN KHODPIA)**  
लेखा सदस्य / ACCOUNTANT MEMBER

**रायपुर / Raipur; दिनांक Dated 13/11/2025**  
Vaibhav Shrivastava

**आदेशकी प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant- Kiran Agrawal
2. प्रत्यर्थी/ The Respondent- ITO, Dhamtari
3. The Pr. CIT, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर/ DR,  
ITAT, Raipur
5. गार्ड फाईल / Guard file.

// सत्यापित प्रति True copy //

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur