



आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE MS.ASTHA CHANDRA, JUDICIAL MEMBER
AND
DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.2291/PUN/2025

निर्धारण वर्ष / Assessment Year: 2015-16

Shahbaz Shafeeque, House No.904, Lane No.2, Malegaon City S.O., Malegaon, Nashik, Malegaon – 423203. Maharashtra.	Mohammed	V s.	The Income Tax Officer, Ward-1, Malegaon.
PAN: CFPPM6844A			
Appellant/ Assessee			Respondent / Revenue

Assessee by	Shri Sanket Joshi (Virtual)
Revenue by	Smt Saumya Pandey Jain-Addl.CIT
Date of hearing	20/11/2025
Date of pronouncement	20/11/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

In this case, appeal has been filed by the Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC] passed under section 250 of the Income Tax Act, 1961 for the A.Y.2015-16 dated 28.02.2025. The Assessee has raised the following grounds of appeal :



“1] The learned CIT(A) erred in dismissing the appeal in limine by refusing to condone the delay of 126 days in filing the appeal against the asst. order u/s 144 r.w.s. 147 without appreciating that the said delay was due to reasonable cause and the same ought to have been condoned in the interest of justice.

2] The assessee submits that he is educated only upto Std. X in Urdu medium and he was not conversant with income tax portal mechanism and the notices as well as the asst order was served only through email on id *akhlaqueca@yahoo.com' belonging to erstwhile tax consultant and not on the registered email id 'ishtiyaqueansaril111@gmail.com' and this fact came to the notice of the assessee only around October 2023 when the A.O. initiated recovery proceedings and thereafter, the appeal came to be filed on 26.10.2023 and hence, the delay of 126 days in filing appeal before CIT(A) ought to have been condoned in the interest of justice.

3] The assessee that the additions made by the A.O. in the ex-parte asst. u/s 147 r.w.s. 144 are apparently unjustified in as much as the A.O. has taxed the cash deposits of Rs.1,86,04,860 as against the actual quantum of cash deposits of Rs.86,76,200 which represented turnover of business of trading in goat skin and only marginal net profit thereon constituted income and hence, non adjudication of appeal on merits has resulted into genuine hardship and irreparable loss to the appellant and therefore, the appeal may please be adjudicated on merits.

4] The assessee submits that the notice u/s 148 issued on 18.07.2022 issued by the Jurisdictional A.O. for A.Y.2015 16 after the period of six years from end of A.Y.2015 16 is apparently unsustainable in view of the law consistently laid down by Hon'ble ITAT, Pune and therefore, the appeal may be adjudicated and allowed, on the above legal issue.

6] The assessee submits that the notice u/s 148 dated 19.07.2022 issued by the J.A.O. without mentioning DIN in the body of notice u/s 148 is contrary to the mandate of CBDT Instructions and hence, the said notice u/s 148 itself was unsustainable in view of the law laid down by Hon'ble Jurisdictional High Court and hence, the appeal ought to have been adjudicated and the asst. order u/s 147 ought to have been declared as null and void in law.

7] The learned CIT(A) erred in not appreciating the law laid down by Hon'ble Supreme Court in the case of Inder Singh v. State of Madhya Pradesh [2025 LiveLaw (Supreme Court) 339] wherein it has been held that the considerations of merits are not to be altogether ignored while adjudicating the issue of delay condonation and the delay in filing appeal should be condoned if the appellant has a just cause on merits.



8] *The appellant craves leave to add/ alter/ amend any of the grounds of appeal.”*

Findings & Analysis :

2. We have heard both the parties and perused the records. Ld.AR appeared virtually and submitted that Id.CIT(A) has not decided the legal grounds and hence appeal may be set-aside to Id.CIT(A) to decide the legal grounds and merits. In this case, Id.CIT(A) has dismissed the appeal of the Assessee. Relevant paragraphs 6.5, 6.6, 6.7, 7 are reproduced as under :

Quote “6,5 Thus, considering the lackadaisical approach of the appellant, it is clear that the appellant is not interested in pursuing the appeal filed by him. Therefore, in the absence of the proper written submission with documentary evidences thereof, the appeal filed by the appellant is rejected solely on this ground. It is trite that an appellant authority is essentially called upon to balance the two sides of an argument presented before him as held in Nirmal Singh and Others of the Hon'ble Punjab and Haryana High Court (Cr. No. 3791 of 2013 (O&M) dated 01.05.2014]. The AO has passed assessment order giving detailed finding The appellant filed appeal against the impugned order and raised grounds of appeal. However, mere raising of grounds of appeal is not sufficient to adjudicate the issues on merits.

6.6 Therefore, in the absence of any reasonable, cogent and valid evidences/arguments/contentions advanced by the appellant in the instant appeal to counter the AO's decision as contained in the Order passed u/s. 147 r.w.s. 144 of the Act on 27/04/2023, I am unable to interfere with the action of the Assessing Officer. Therefore, all the grounds raised by the appellant in the present appeal are dismissed.

6.7 Without prejudice to the above, it is seen from the records that an assessment order has been passed u/s Section 147 r.w.s 144 of the Act on 23/05/2023 by the AO which was served electronically (on email) on the same day. Accordingly, this appeal is delayed by 126 days for which the assessee has failed to submit sufficient cause for delay as per section 249(3) of the Act. Therefore, I am satisfied that the appellant



did not have sufficient cause for not presenting the appeal within the due date. Therefore, this appeal is able to be rejected on this ground also:

7. Hence, the appeal of the assessee is dismissed.”Unquote.

2.1 Thus, it can be observed that Id.CIT(A) has dismissed the appeal of the Assessee for not filing the relevant details. It is observed that Id.CIT(A) had issued three notices dated 04.04.2024, 19.12.2024 and 26.12.2024. There was no compliance by the Assessee, hence, Id.CIT(A) dismissed the appeal without discussing grounds of appeal raised by the Assessee. In this case, Assessee had raised legal grounds of appeal. The grounds of appeal raised by the Assessee before Id.CIT(A) as under :

“1) On the facts and in law the A.O. has erred in making addition of Rs.1,82,04,860/- u/s 69A on account of unexplained cash deposits in Renuka Mata Multi State Urban Co-Op. Society where as the actual amount deposited is Rs.86,76,200/- which is from explained source of sale proceeds of goat skin leather and on few times goats.

2) On the facts and in law the A.O. has erred in making addition of Rs.86,76,200/- u/s 69A on account of unexplained cash deposits in Renuka Mata Multi State Urban Co-Op. Society which is from explained source of sale proceeds of goat skin leather and on few times goats.

3) On the facts and in law the A.O. has erred in making addition u/s 69A of Rs. 86,76,200/- (Which is actual cash deposit) in respect of sale proceeds deposited in bank instead of profit on the impugned sale of Rs. 1,73,524/-.

4) On the facts and in law the A.O. has erred in issuing notice u/s 148 on 18/07/2022 for A.Y. 2015-16i.e. after expiry of 6 years from the end of assessment year as per 1st Proviso to section 149(1) and in view of ratio laid down by recent decisions of Hon. Gujrat High Court and Hon. Allahabad High Court. Therefore, the impugned notice u/s 148 is



invalid and hence the said notice and reassessment proceedings are void ab initio.

5) On the facts and in law the notice issued u/s 148 on 18/07/2022 by Jurisdictional AO is contrary to the CBDT mandate issued by notification dated 29/03/2022 rws 151A of the Act directing that all notices u/s 148 after 29/03/2022 shall be issued under faceless scheme and not by Jurisdictional AOs and therefore the said notice u/s 148 is to be declared as null and void in law.

6) On the facts and in law the notice issued u/s 148 on 18/07/2022 by Jurisdictional AO without date and DIN number is bad in law.

The appellant craves leave to add alter delete above or any other ground/s of appeal.”

2.2 Thus, the Id.CIT(A) could have decided the legal grounds of appeal even in the absence of any submission by the Assessee, based on the facts, which could have been ascertained from the Assessing Officer. Thus, Id.CIT(A) has failed to get the basic details from the Assessing Officer and decide the legal grounds.

3. The Hon'ble Bombay High Court has held in the case of Pr.CIT(Central) Vs. Premkumar Arjundas Luthra (HUF) **(Bombay)/[2017] 297 CTR 614 (Bombay)** as under :

Quote, “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 coterminous 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.” Unquote.

3.1 Thus, the Hon’ble Bombay High Court has categorically held that Id.CIT(A) has to decide the appeal on merit and Id.CIT(A) does not have any power to dismiss appeal for non-prosecution.

4. In view of the above, in the interest of justice, we set-aside the order of the Id.CIT(A) to Id.CIT(A) for denovo adjudication. Ld.CIT(A) shall provide opportunity to the assessee. Assessee shall file all the necessary documents before the Id.CIT(A). Accordingly,



grounds of appeal raised by the assessee are allowed for statistical purpose.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Delay :

6. In paragraph 6.7, Id.CIT(A) stated that appeal is dismissed due to delay of 126 days. We have perused the affidavit filed by the assessee and observed that there was sufficient reason for delay. Substantial justice is more important than procedural delay. Therefore, Id.CIT(A) is directed to condone the delay and decide the appeal on merits.

Order pronounced in the open Court on 20 November, 2025.

Sd/-
MS.ASTHA CHANDRA
JUDICIAL MEMBER

Sd/-
Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 20 Nov, 2025/ SGR

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.



5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.