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.701/RPR/2025
निर्धारण वर्ष /Assessment Year : 2018-19

M/s. U.K Steel
0, K.H No.272/5, Sarora,
Urla Industrial Area,
Raipur (C.G.)-492 001 (C.G.)
PAN: AABFU6560C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Assistant Commissioner of Income Tax,
Circle-1(1), Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None (Petition filed)
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 01.12.2025
घोषणा की तारीख / Date of Pronouncement : 01.12.2025

आदेश / ORDER

PER PARTHA SARATHI CHAUDHURY, JM

The present appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, Delhi dated 29.10.2025 for the assessment year 2018-19 as per the grounds of appeal on record.

2. At the time of hearing, none appeared for the assessee. However, an adjournment petition has been filed which is rejected since the parameters and spectrum of the matter is no more *res-integra* so far as this Bench is concerned in terms with the decision of the ITAT, "Division Bench", Raipur in the cases of **Brajesh Singh Bhadoria Vs. Dy./ACIT, Central Circle-2, Naya Raipur, IT(SS)A Nos. 1 to 6, 8 & 9/RPR/2025, dated 20.03.2025.** The submissions of the Ld. Sr. DR are recorded and documents perused and considered carefully.

3. At the very outset, it is noted that there is an ex-parte order passed by the Ld. CIT(Appeals)/NFAC since there was no compliance by the assessee. The relevant paras are extracted as follows:

> "**5. Proceedings before the CIT(Appeals):**
>
> The appellant was given opportunity to present its case by issuing hearing notices dated 06.11.2024, 18.11.2024 and 10.10.2025 asking to furnish the written submissions in support of its grounds of appeal and statement of facts, on or before 21.11.2024, 03.12.2024 and 27.10.2025. There was no response from the assessee.

6. Adjudication:

6.1 As evident from the para 6 above, the appellant was given sufficient time to present his case. Despite sufficient time to submit written explanations and supporting documents, the appellant failed to provide any documentary evidence supporting the claims made in the grounds of appeal. White filing the appeal, the appellant submitted statement of facts and grounds of appeal. However, the appellant has not submitted any explanation as to how the income assessed by the AO is not sustainable. The appellant has failed to respond to the notice even after allowing sufficient time.

6.2 Merely raising legal grounds on procedural aspects does not help the assessee's case unless the appellant/assessee discharges his burden of proof with regards to non-taxability of the cash deposits made in his bank accounts. In this specific case, the assessee wholly and solely is relying on legal grounds without clarifying the factual aspect with the support of documentary evidences. The assessee cannot challenge the government by saying that the deserves exemption from taxation only by pointing out apparent loopholes in the procedures adopted by the Assessing Officer, even though there is a clear cut tax liability on the assessee's head. Law comes to assessee's rescue only if he has already discharged his legal duties (disclosing correct income and paying tax thereon), but not to those assessees who escape from taxation. The assessee's case clearly is a case where he failed to discharge his duty of declaring correct income and paying taxes thereon and therefore, the legal grounds raised by the assessee do not deserve attention by the undersigned and hence do not need adjudication.

6.3. The appellant has not adduced any evidence either in his support or to refute the observations made by the AO. Sufficient time was allowed, however, the appellant did not file any submission or documentary evidence either against the observation of the AO or in favour of the claim made in the grounds of appeal. In the absence of the documentary evidence, the appeal cannot be adjudicated. Hon'ble Supreme Court in the case of CIT Vs. B.N. Bhattachariee and

> others [1970] 10 CTR 354 (SC) observed that preferring an appeal means effectively pursuing it. The Hon'ble M.P. High Court in the case of Estate of Late Tukojiraoholkar Vs CWT [1979] 223 ITR 480 (M.P.) dismissed the reference filed at the instance of the assessee for default and for not taking necessary steps. Similarly considering the case at hand the appellant has not filed any submission even after allowing sufficient opportunities and therefore, the same ratio is applicable here. This view has been affirmed by Hon'ble ITAT Ahmedabad in the case of Amitkumar H. Shah Vs ACIT in ITA No.2985/Ahd/2010 vide their order dated 31/12/2013, wherein following the order of ITAT Delhi bench in the case of CIT Vs Multiplan India Pvt Ltd. [1991] 38 ITD 320 (Del), ITAT has dismissed the appeal filed by the assessee for want of prosecution.
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> Under these circumstances, the current appeal of the appellant is liable to be dismissed and accordingly dismissed.
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> 7. As a result, appeal filed by the appellant against the order passed u/s. 147 rws 144B of the I.T. Act for A.Y. 2018-19 is Dismissed."

4. There is no doubt that reasonable opportunities were provided to the assessee. At the same time, no evidence has been placed on record by the Revenue or in the order of the Ld. CIT(Appeals)/NFAC that such non-compliance by the assessee was deliberate or malafide. That therefore, plausible doubt also accrues in favour of the assessee. Meaning thereby that the assessee may have been prevented from responding to the hearing notices and uploading the submissions due to reasons beyond its control and therefore, the principles of natural justice demands that one final opportunity should be given to the assessee so to represent its matter

before the Ld. CIT(Appeals)/NFAC on merits with submissions and evidences. That further, since there was no compliance by the assessee, the Ld. CIT(Appeals)/NFAC was not able to comply with the mandate of Section 250(4) & (6) of the Act. That since the statutory provisions were not complied with and there has been no adjudication on merits by the sub-ordinate authorities, therefore, this Tribunal which is also part of the statute and highest fact finding authority cannot *suo-motto* verify and enquire all facts and it is incumbent upon the Ld. CIT(Appeals)/NFAC to first adjudicate on merits considering all the relevant facts/material and through reasoning of its decision and only then it is appropriate for this Bench to look into the correctness of such decision in case of the assessee, thereby also complying with the intent of the legislature. In other words, one statutory authority should not usurp the power of another statutory authority without allowing any opportunity to that authority to adjudicate the matter on merits. At the same time, the assessee should also know that the compliance in any legal proceedings before any legal forum as per statute is clearly mandatory. In this regard, I also refer to the relevant paras of the decision of the ITAT, "Division Bench", Raipur in the cases of **Brajesh Singh Bhadoria Vs. Dy./ACIT, Central Circle-2, Naya Raipur (supra)** which reads as follows:

> "7. We have considered the submissions of the parties herein and analyzed the facts and circumstances involved in all the captioned appeals. After careful perusal of the

documents on record, we find that the assessee had assailed the legal ground as aforestated, however, the fact of the matter is that on perusal of the respective orders of the Ld. CIT(Appeals) for all the years before us, it is also evident from Para 3 that there has been no compliance by the assessee before the said authority and as such, an ex-parte order was passed for the concerned years in appeal. Admittedly, as per record, sufficient opportunities had been provided to the assesse, however, there was no compliance by the assessee. In effect, rights and liabilities of the parties herein are yet to be adjudicated substantially at the level of the first appellate authority. Though in the impugned orders, discussion has been done as per material available on record by the Ld.CIT(Appeals) but they are only Form 35, statement of facts, grounds of appeal and the assessment order. However, due to non-compliance by the assessee, there are no submissions, evidence and documents submitted for adjudication by the assessee before the Ld. CIT(Appeals). That as per Para 3 of the Ld. CIT(Appeals) order, there has been no compliance on the part of the assessee for submitting detailed explanations regarding the grounds of appeal for the years under consideration which clearly shows that the grounds of appeal raised before the first appellate authority has not been substantiated on merits through corroborative evidence /submissions.

8. That in such scenario we are of the considered view that the Income tax Act is within the ambit of welfare legislation which are completely different from that of the penal legislation, therefore, benefit of doubt whenever arises, it has to be interpreted in favour of the assessee tax payer within the parameters of law and facts. There may be circumstances beyond control of the assessee because of which, the assessee may not have been able to represent his case on the given dates of hearing before the Ld. CIT(Appeals). Though it is correct that there was no compliance from the side of the assessee, however, nothing is there on record which suggests any deliberate non-compliance or malafide conduct of the assessee. That further, if one final opportunity is provided to the assessee to represent his case before the first appellate authority, the position of the revenue will also not be jeopardized.

9. Recently, the **Hon'ble High Court of Bombay** in the case of **Vijay Shrinivasrao Kulkarni Vs. Income-tax Appellate Tribunal (2025) 171 taxmann.com 696 (Bom.), dated 04.02.2025** observed that in the case the Assessing Officer had passed an ex-parte order and when the matter

went on appeal before the Ld. CIT(Appeals)/NFAC, it had also dismissed the matter ex-parte due to non-compliance by the assessee's authorized representative, when the matter came up before the ITAT, it had failed to address the infirmity regarding the fact that the assessee was not afforded proper opportunity of being heard and the matter was dismissed ex-parte by the Ld. CIT(Appeals)/NFAC which amounted to violation of principles of natural justice, and instead ITAT decided the case on merits, in such circumstances, the Hon'ble High Court of Bombay held that passing of an order on merits by the ITAT even when the impugned order was passed ex-parte amounts to violation of principles of natural justice and accordingly, the said matter was remanded to ITAT for passing a fresh order in accordance with law after hearing the parties. The legal principle as enshrined in the present judgment is crystal clear that the principles of natural justice i.e. the right to be heard is to be provided and accordingly, the matter had to be substantially adjudicated by the appellate authority. Therefore, if the impugned order of the Ld. CIT(Appeals)/NFAC is an ex-parte order, the only recourse in conformity with the aforesaid judicial pronouncement is to remand the matter back to the file of the Ld. CIT(Appeals)/NFAC for fresh adjudication in terms with the principles of natural justice providing one final opportunity to the assessee.

10. In the aforesaid case, the Hon'ble High Court of Bombay had referred to a judgment of the Hon'ble **Supreme Court** in the case of **Delhi Transport Corporation vs. DTC Mazdoor Union AIR 1999 SC 564**, wherein the Supreme Court inter-alia held that Article 14 guarantees a right of hearing to a person who is adversely affected by an administrative order. The principle of audi-alteram partem is a part of Article 14 of the Constitution of India. In light of such decision, the petitioner ought to have been granted an opportunity of being heard which, partakes the characteristic of the fundamental right under Article 14 of the Constitution of India.

11. The Hon'ble High Court of Bombay in the aforesaid case had referred to a decision of the Hon'ble **Supreme Court** in the case of **Commissioner of Income Tax Madras v. Chenniyappa Mudiliar 1969 1 SCC 591**, wherein the Supreme Court in interpreting the section 33(4) of the Income Tax Act, 1922 has held that the appellate tribunal was bound to give a proper decision on question of fact as well as law, which can only be done if the appeal is disposed off on merits and not dismissed owing to the absence of the appellant.

Reverting to the facts of the present case the grounds of appeal were simply filed before the Ld.CIT(Appeals) they were not substantiated or corroborated through submissions and filing of documentary evidences since the assessee had not complied before the Ld.CIT(Appeals) on the dates of hearing. Therefore, as per framework of the Act there must be adjudication on merits by the first appellate authority and one final opportunity be provided to the assessee to represent his matter on merits in the interest of natural justice.

12. There may even be a situation where the Ld. Counsel for the assessee may assail a legal ground before the Tribunal following the decision of the Hon'ble Supreme Court in the case of **National Thermal Power Company Ltd. Ltd. Vs. CIT (1998) 229 ITR 383 (SC)** with a contention that irrespective of the order of the Ld. CIT(Appeals) being ex-parte, the Tribunal may decide the legal issue that has been raised by the Ld. Counsel. In our view, the decision of the Hon'ble Supreme Court in the case of **National Thermal Power Company Ltd. Ltd. Vs. CIT (supra)** provides that any legal issue which goes to the root of the matter and is established through legal principles, the assessee can take up and raise such legal issue at any appellate forum irrespective of whether the assessee had raised such legal issue at the sub-ordinate level or not, however, it always depends on facts and circumstances of each case whether the Tribunal would decide the legal ground or in a case where the question is of natural justice and ex-parte order by the Ld. CIT(Appeals) the Tribunal would remand it back to Ld.CIT(Appeals) providing final opportunity to a bonafide assessee. The Tribunal as the highest fact finding authority must be certain enough that the impugned order before it has been passed on merits and is a speaking order where the assessee has also complied during the process of litigation. In case, where the order of the Ld. CIT(Appeals) itself is ex-parte and some legal ground is raised and if the Tribunal decides such legal ground where in fact principles of natural justice is left unanswered due to the fact that the impugned order before the Tribunal is ex-parte and there was no compliance by the assessee in such scenario the Tribunal would also be usurping the power of the Ld. CIT(Appeals) which is also a statutory authority as per the Act. This is due to the reason that as per framework of the Act, Ld.CIT(Appeals) is the first appellate authority where an appeal by assessee it would be substantially decided through a speaking order by the Ld.CIT(Appeals). When this part is over and either party is aggrieved second appeal lies before the ITAT. Now if for every ex-parte order passed by the Ld. CIT(Appeals), of course due to

> non-compliance by the assessee, if the Tribunal adjudicates a legal ground, for instance validity of assessment or reassessment order and answers it in favour of the assessee then it would create an easy route for assessee getting redressal from Tribunal even without bothering to comply with hearing notices before the Ld. CIT(Appeals). This would dismantle the structure of the Act which is definitely not the intention of the legislature. Here in this situation, where the benefit of doubt is given to the assessee since he had not complied with the hearing notices before the Ld. CIT(Appeals) which resulted in passing of an ex-parte order by the Ld. CIT(Appeals), in such scenario, as per the scheme of the Act and following the principles of natural justice, the only course of action is to remand the matter back to the file of the Ld. CIT(Appeals) for adjudication on merits providing one final opportunity to the assessee.
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> 13. In view thereof, we set aside the respective orders of the Ld. CIT(Appeals) for all the years and remand the same to their file for denovo adjudication on merits. At the same time, we direct the assessee that this being the final opportunity, there must be compliance on merits before the first appellate authority. Needless to say, the Ld. CIT(Appeals) shall provide reasonable opportunity of being heard to the assessee and pass an order in terms of Section 250(4) and (6) of the Act within three months from receipt of this order."

5. In view of the aforesaid observations and judicial pronouncement, the order of the Ld. CIT(Appeals)/NFAC is set aside and remanded back to its file for denovo adjudication as per law and the assessee is directed that this being final opportunity, it should make full endeavor to comply with the hearing notices issued from the office of the Ld. CIT(Appeals)/NFAC.

6. As per the above terms grounds of appeal raised by the assessee stands allowed for statistical purposes.

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

Order pronounced in open court on 1st day of December, 2025.

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

रायपुर / Raipur; दिनांक / Dated : 1st December, 2025.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-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 //

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