



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

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

आयकर अपील सं. / ITA No.2193/PUN/2025

निर्धारण वर्ष / Assessment Year: 2011-12

Savita Mitkari, Flat No.302, G4, Gangadham Phase II, Market Yard, Pune – 411037.	V s	The Income Tax Officer, PMT Building Commercial Complex, Swargate, Pune – 411037.
PAN: ARPPM8052L		
Appellant/ Assessee		Respondent / Revenue

Assessee by	CA Sagar Kale
Revenue by	Shri Arvind Renge – Addl.CIT(DR)
Date of hearing	06/11/2025
Date of pronouncement	28/11/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee against the order of
ld.Commissioner of Income Tax(Appeal)[NFAC] passed under
section 250 of the Income Tax Act, 1961 for the A.Y.2011-12 dated
30.07.2025 emanating from the Assessment Order passed under
section 143(3) r.w.s 147 of the Act, dated 30.12.2018. The Assessee
has raised the following grounds of appeal :



*“The appellant is an individual taxpayer engaged in agricultural activities. For Assessment Year (AY) 2011-12, the appellant filed her Income Tax Return disclosing agricultural income and other sources of income. The case was subsequently reopened under Section 147 of the Income Tax Act, 1961 and reassessed under Section 143(3) read with Section 147. The Assessing Officer made additions of *10,00,000 as unexplained unsecured loan under Section 68 and 17,35,000 as unexplained cash deposits. The appellant filed an appeal before the CIT(A), Chennai, which was dismissed ex parte on 30/07/2025 without considering the merits or documentary evidence on record*

That the learned CIT(A) erred in law and on facts in dismissing the appellant's appeal ex-parte solely on the ground of non-appearance, without providing any opportunity to explain the reasons for non-appearance, despite the fact that the appellant had filed the appeal in time and had valid reasons beyond control preventing appearance before CIT(A). Such mechanical dismissal constitutes gross procedural irregularity and blatant violation of principles of natural justice.

That the learned CIT(A) failed to appreciate the settled legal position that once an appeal is filed, it must be adjudicated on its merits and cannot be dismissed merely due to procedural non-appearance, especially when credible documentary evidence is already part of the record. The act of ignoring the substantive merits of the case amounts to arbitrary and unjust administrative action.

That the CIT(A) erred in sustaining the addition of 10,00,000 as unexplained unsecured loan under Section 68, ignoring the fact that

The appellant produced a proper Loan Confirmation Letter from Shri Bansilal Pannalal Gundecha affirming the genuineness of the loan.

The lender's PAN and address proof are available on record, satisfying the requirements of the Act.

Bank statements reflect the credit of 10,00,000 into the appellant's account during the relevant financial year

Bank statements further show regular interest payments by the appellant to the lender in line with the loan agreement,



The bank statement also reflects repayment of the loan in subsequent periods.

These collectively prove the genuineness of the transaction and were not considered by the CIT(A)

That the addition of 7,35,000 as unexplained cash deposits is wholly erroneous, as the same pertains to legitimate agricultural income supported by:

Proper agricultural sale invoices showing sale of produce during the relevant financial year.

The appellant's Income Tax Return (ITR) for AY 2011-12 clearly disclosing agricultural income.

That the learned CIT(A) failed to appreciate that the burden of proof lies on the department to establish unexplained nature of loan or deposits. The appellant has already discharged the burden by producing:

Loan confirmation from Shri Bansilal Pannalal Gundecha.

PAN and Address proof of the lender.

Bank statements evidencing loan credit, interest payment, and repayment.

Sale invoices proving agricultural income.

That the CIT(A) mechanically dismissed the appeal without any application of mind, without considering the merits or documentary evidence on record, thereby rendering the order illegal and arbitrary in the eyes of law.

That it is a well-settled judicial position that such an ex-parte order without substantive consideration of documents is liable to be quashed, and the matter should be adjudicated on merit in the interest of justice.



That the appellant also prays for stay of recovery of the total tax demand (17.35 lakh approximately) during the pendency of this appeal, as recovery at this stage would cause undue hardship and prejudice.

That the appellant craves leave to amend or add further grounds of appeal at the time of hearing if found necessary in the interest of justice and equity.”

Submission of Id.AR :

2. The Id.Authorised Representative(Id.AR) for the Assessee submitted that assessee’s appeal was dismissed by the Id.CIT(A) without discussing each and every ground and merits of the case and merely dismissed for non-compliance. Hence, Id.AR requested for one more opportunity of being heard to the assessee.

Submission of Id.Departmental Representative(Id.DR) :

3. The Id.DR for the Revenue relied on the order of Assessing Officer(AO) and Id.CIT(A)[NFAC].

Findings & Analysis :

4. We have heard both the parties and perused the records.

Ld.CIT(A) has held as under :

“From the conduct of the appellant as per the facts noted above, it is clear that the appellant does not wish to pursue the appeal. Even otherwise on the merits of it also, I do not see any reason to differ with the findings of the AO since no attempt has been made by the appellant to discharge its onus. Hence, respectfully following the above-



mentioned judicial pronouncements and in view of the facts of the case, the appeal is hereby dismissed.

5. In the end result, the appeal is DISMISSED.”

4.1 It is observed from the order of the Id.CIT(A) that the Id.CIT(A) did not decide the grounds of appeal on merit but merely dismissed the appeal of the assessee for non-compliance. The Id.CIT(A) has not adjudicated grounds raised by the assessee on merits.

5. 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.

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

6. In view of the above, in the interest of justice, we set-aside the order of the ld.CIT(A) to ld.CIT(A) for denovo adjudication.



Ld.CIT(A) shall provide opportunity to the assessee. Assessee shall file all the necessary documents before the ld.CIT(A). Accordingly, grounds of appeal raised by the assessee are allowed for statistical purpose.

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

Order pronounced in the open Court on 28 November, 2025.

Sd/-
MS.ASTHA CHANDRA
JUDICIAL MEMBER

Sd/-
Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 28 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, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

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