



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

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2276/PUN/2025

निर्धारण वर्ष / Assessment Year: 2013-14

Shrimadurjit Seva Kendra, S.No.117/1, Chowisawdi, Haveli, Pune – 412105.	V s.	The Income Tax Officer, Ward-8(3), Pune.
PAN: ABSFS4340L		
Appellant/ Assessee		Respondent / Revenue

Assessee by	None
Revenue by	Shri Amit Bobde –CIT(DR)
Date of hearing	19/11/2025
Date of pronouncement	28/11/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

In this case, appeal has been filed by the Assessee against the order of Id.Additional/Joint Commisioner of Income Tax(Appeal), Panaji passed under section 250 of the Income Tax Act, 1961 for the A.Y.2013-14 dated 31.07.2025. The Assessee has raised the following grounds of appeal :

"1.The learned Addl./Jt.CIT(A), Panaji erred in law and on facts in dismissing appellant's appeal without granting sufficient opportunity of being heard. Appellant assures to make all the compliances before the



learned Addl./Jt. CIT(A), Panaji if another opportunity of being hear

2. The learned CIT(A), Panaji erred in law and on facts in dismissing appellant's appeal on the analogy that mandatory documents such as assessment order, statement of facts and grounds of appeal are not submitted during the course of appellate proceeding. The learned Addl./Jt. CIT(A), Panaji ought to have appreciated that the said mandatory documents were duly submitted by appellant along-with Form-35.

3. Appellant contends that the learned AO, CPC Cell - TDS, Ghaziabad; erred in law and on facts in levying fees u/s 234E of the ITA, 1961 amounting to Rs. 18,200/- without appreciating that for the period prior to 01/06/2015, levy of fees u/s 234E of the ITA, 1961 is not a permissible adjustment contemplated u/s 200A of the ITA, 1961 as held by various courts.

4. Appellant contends that the learned AO, CPC Cell - TDS, Ghaziabad; erred in law and on facts in levying interest u/s 220(2) of the ITA, 1961 amounting to Rs.18,200/-.

5. Appellant craves leave add / alter / modify / delete / amend all / any of the Grounds of Appeal.”

2. At the outset of hearing, no one appeared on behalf of the assessee. No written submission was filed.

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 Id.DR for the Revenue and perused the records.

Ld.CIT(A) has held as under :

“1. Despite granting sufficient time and opportunity to the appellant the appellant utterly failed to file the relevant mandatory documents during the course of appellate proceedings i.e. assessment order, statement of facts, grounds of appeal and also the appellant failed to file any written submission. The failure to furnish the relevant mandatory documents constitutes a breach of procedural requirements essential for the proper presentation of the appeal. Therefore, this appeal cannot be concluded/adjudicated in its present form.

1. Considering the above facts, the appeal of the appellant for AY 2013-14 stands DISMISSED herewith.”

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.Addl.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/-
VINAY BHAMORE
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, "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.