



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.1257/PUN/2025

निर्धारण वर्ष / Assessment Year: 2018-19

Shri Jayshivrai Nagri Sahakari Pathsanstha Limited, 2832B Ward Yamula Devalaya Najik Karveer, Kolhapur – 416012. Maharashtra.	V s	The Income Tax Officer, Ward-1, Kolhapur.
PAN: AAQAS6598A		
Appellant/ Assessee		Respondent / Revenue

Assessee by	None.
Revenue by	Shri Aviyogi Ambadkar– Addl.CIT(DR)
Date of hearing	08/09/2025
Date of pronouncement	09/09/2025

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], Delhi passed
under section 250 of the Income Tax Act, 1961 dated 13.11.2024 for
the A.Y.2018-19 emanating from the Assessment Order under
section 147 r.w.s 144 of the Income Tax Act, 1961, dated



29.03.2023. The Assessee has raised the following grounds of appeal :

“1. On the facts and the circumstances of the case and in law, learned CIT appeal erred in passing Ex-parte order u/s 250 of The Income Tax Act. 1961 without discussing the merit of the case, appellant prays for restoring the matters to the file of learned CIT Appeal for considering the appeal on merit. The notice for hearing was send fo email address which was not used by the assessee and hence the assessee was unable to comply with the notices

2 On the facts and in the circumstances of the case, the CIT(A) erred in making additions of Rs.80,33,693/- on account of unexplained money under section 69A of the Act when the assessee fully explained the cash deposits and credits in the bank account

2 On the facts and in the circumstances of the case, the CIT(A) erred in law and on merit in making additions of Rs 76,602/-

3. On the facts and in the circumstances of the case, the CIT(A) erred in law and on merit in levying penalty under section 271AAC of the Act.

4 On the facts and in the circumstances of the case, the CIT(A) erred in law and on merit in levying penalty under section 270A of the Act

6 On the facts and in the circumstances of the case, the CIT(A) erred in law and on merit in levying penalty under section 272A(1)(d) of the Act

6 The assessee prays for leave to raise any additional grounds of appeal if found necessary during the course of appeal and alter delete or modify the grounds raised in appeal.”

Submission of ld.AR :

2. At the outset of hearing, no one appeared on behalf of the assessee.

Submission of ld.DR :

3. Ld.Departmental Representative(ld.DR) for the Revenue relied order of Assessing Officer and Ld.CIT(A).

**Findings & Analysis :**

4. We have heard Id.DR for the Revenue and perused the records.

4.1 Aggrieved by the assessment order, assessee filed appeal before the Id.CIT(A). The grounds of appeal raised before the Id.CIT(A) are as under :

“1. On the facts and in the circumstances of the case, the AO erred in making additions of Rs. 80,33,693/- on account of unexplained money under section 69A of the Act when the assessee fully explained the cash deposits and credits in the bank account

2. On the facts and in the circumstances of the case, the AO erred in law and on merit in making additions of Rs. 76,602/-

3. On the facts and in the circumstances of the case, the AO erred in law and on merit in levying penalty under section 271AAC of the Act.

4. On the facts and in the circumstances of the case, the AO erred in law and on merit in levying penalty under section 270A of the Act.

5. On the facts and in the circumstances of the case, the AO erred in law and on merit in levying penalty under section 272A(1)(d) of the Act.

6. The assessee prays for leave to raise any additional grounds of appeal if found necessary during the course of appeal and alter, delete or modify the grounds raised in appeal.”

4.2 The Id.CIT(A) during the appellate proceedings issued three notices vide dated 28.04.2023, 12.07.2024 and 22.10.2024. However, Assessee failed to comply these notices. Therefore, Id.CIT(A) dismissed the appeal of the assessee and confirmed the assessment order.



4.3 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 09 September, 2025.

Sd/-

**VINAY BHAMORE
JUDICIAL MEMBER**

Sd/-

**Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 09 Sep, 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.