

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)**

**ITA No. 3329/MUM/2025
Assessment Year: 2008-09**

Cannon Industries Pvt. Ltd.,
109, Churchgate Chambers, 5,
New Marine Lines,
Mumbai-400020.

**PAN NO. AAACC 2189 D
Appellant**

Vs. Dy. CIT Central Circle-3(1),
Kautilya Bhavan,
Mumbai-400051.

Respondent

Assessee by : None
Revenue by : Mr. R. A. Dhyani, CIT-DR

Date of Hearing : 16/10/2025
Date of pronouncement : 18/12/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 22.11.2024 passed by the Ld. Commissioner of Income-tax (Appeals) – 51, Mumbai [in short 'the Ld. CIT(A)'] for assessment year 2008-09, raising following grounds:

- 1. That the company never received the Hearing Notices for the subjected matter,*
- 2. That the order was passed ex-parte by the commissioner Appeals, against the remand order.*



3. The Appeal lent Commissioner eared in negotiating the other income as out of business income, where as other income was the part of total income of company impacting the total turnover of the company.

4. Those were mainly related to the job work charges collected within the total turnover of the company during the year for which total income tax Assessed/profit were drawn, including the income from other sources.

5. They can't be termed as separate income under same balance sheets.

So for that we are appealing against the order of commissioner Appeals as the notice were not received physically or not on the Income Tax Portal, so appeal is filled before you and also seeking condo nation of the delay.

2. We noted that despite due service of notice, none appeared on behalf of the assessee. No application seeking adjournment was filed. The record further reveals that on three earlier occasions as well, when the appeal was listed for hearing, there was no appearance on behalf of the assessee. Such repeated and unexplained absence clearly demonstrates lack of interest in prosecuting the appeal. In the circumstances of the consistent non-appearance of the assessee,, we were of the opinion that assessee is not interested in prosecuting the present appeal.

3. The learned Departmental Representative invited our attention to the defect pointed out by the Registry regarding delay of 99 days in filing the appeal. On perusal of Form No. 36, it is seen that the assessee has itself acknowledged the delay. However, no application seeking condonation of delay has been filed, nor has any explanation supported by affidavit been placed on record.



4. It is well settled that an appeal filed beyond the prescribed period of limitation can be entertained only upon the assessee demonstrating sufficient cause to the satisfaction of the Tribunal. In the present case, the assessee has neither disclosed any reason for the delay nor taken steps to cure the defect despite due intimation. In the absence of any prayer for condonation of delay and in the absence of any explanation whatsoever, the appeal, being barred by limitation, is not maintainable. Accordingly, the appeal is dismissed as unadmitted.

5. Accordingly, the appeal is rejected as unadmitted.

6. However, it is made clear that this order shall not preclude the assessee from moving an appropriate application for recall and restoration of the appeal, supported by a duly sworn affidavit explaining the delay as well as the non-appearance, in accordance with law.

7. The appeal is disposed in the terms mentioned above.

Order pronounced in the open Court on 18/12/2025.

**Sd/-
(ANIKESH BANERJEE)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 18/12/2025
Rahul Sharma, Sr. P.S.



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai