

**आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**

**BEFORE SHRI PAWAN SINGH, JM &**  
**SHRI ARUN KHODPIA, AM**

**I.T.A. No. 7123/Mum/2025**  
(Assessment Year: 2014-15)

<b>Sanjay Narendra Bansal,</b> 515, The Sumiit Business Bay, A.K. Road, Prakash Wadi, Andheri(E), Mumbai - 400080 <b>PAN: AACPB6225A</b>	Vs.	<b>DCIT-8(2)(1),</b> Aayakar Bhavan, M.K. Road, Mumbai-400020.
<b>Assessee -अपीलार्थी / Appellant</b>	:	<b>Revenue - प्रत्यर्थी / Respondent</b>

**Assessee by** : Shri K. Gopal & Shri Akhilesh  
Deshmukh, AR

**Revenue by** : Shri Sanjay Bhagat, Sr. DR

**Date of Hearing** : 07.01.2026

**Date of Pronouncement** : 12.01.2026

**ORDER**

**Per Arun Khodpia, AM:**

This appeal is filed by the assessee challenging the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [for short “ld. CIT(A)”] dated 29.05.2025 for the AY 2014-15, arises from the assessment order passed under section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (the Act) dated 26.12.2018 by the DCIT-8(2)(1), Mumbai. The grounds of appeal raised by the assessee are as under:

**"I. Violation of Principles of natural justice**

1. *The Learned National Faceless Appeal Centre (NFAC) has erred in passing the impugned order dated 29.05.2023 under Section 250 of the Income-tax Act, 1961 ("the Act") without affording the Appellant a proper and reasonable opportunity of being heard. The ex-parte order was passed without issuing notices to the email ID provided in Form 35. The Appellant was denied the right to represent its case, rendering the order unjust, bad in law, and liable to be quashed.*

2. *The Ld. NFAC erred in communicating the hearing notices to an email ID other than the one furnished in Form 35. Due to this irregularity, the Appellant remained unaware of the hearings and was prevented from making any effective submissions.*

**Grounds on Merits**

**II. Addition of Rs. 23,71,500/- made without invoking any provisions of the Act is unjustified**

3. *The Ld. NFAC failed to appreciate that the Ld. AO erred in law and on facts in making an addition of ₹23,71,500/- to the income of the appellant without invoking or specifying any relevant provision of the Income-tax Act, 1961. The impugned addition has been made in an arbitrary manner without disclosing the basis under which the said sum was liable to be taxed.*

4. *The Ld. NFAC failed to appreciate that the Ld. AO, during assessment proceedings, did not find or bring on record any incriminating material to establish that the appellant was involved in providing or receiving any accommodation entry.*

5. *The Appellant denies the liability on account of interest levied under section 234A, 234B and 234C of the Act. The levy of such interest is unjustified and deserves to be deleted."*

2. At the outset, it is informed that the appeal filed by the assessee is barred by limitation which is filed with a delay of 829 days. To explain the aforesaid extraordinary delay of 829 days, ld. AR representing the assessee submitted that the notices by NFAC under section 250 were issued on a different email ID

([sanjaynbansal@rediffmail.com](mailto:sanjaynbansal@rediffmail.com)) than the email ID ([sanjaynbansal119@gmail.com](mailto:sanjaynbansal119@gmail.com)), which the assessee had mentioned on Form-35 (appeal memo) before the Id. CIT(A). Only at one occasion (out of 7) the email was sent on the right ID ([sanjaynbansal119@gmail.com](mailto:sanjaynbansal119@gmail.com) - marked as CC), which was inadvertently missed by the assessee, further the order was passed by Id. CIT(A) on ex-parte basis, as the assessee was unaware about the proceedings being not communicated on the correct / preferred email ID. That during the ensuing year, when the filing of tax return was in process, his Tax Consultant randomly checked the outstanding demand and found that the order for AY 2014-15 was passed by Id. CIT(A) on 29.05.2023 on ex-parte basis. It was the submissions that since the communications are mostly forwarded on the non-operative email ID of the assessee, the assessee was unable to respond to such communications and remained non-compliant during the entire appellate proceedings before the Id. CIT(A), thus also was unaware about passing of order.

3. In view of aforesaid facts and circumstances, it was the submission that the delay occasioned in the present matter was not intentional and without any malafide intent or deliberate attempt of negligence by the assessee. It was the prayer that the assessee would bonafide intentions urge to represent its matter again before the FAA, which was missed by him due reasons beyond his control.

4. Per contra, ld. Sr. DR objected to the condonation of delay, being the delay being for exorbitant 829 days, falls within the category of extraordinary delay. It is further submitted by ld. Sr. DR that even one notice was sent on the right email ID, but the assessee remains evasive towards the appellate proceedings. Accordingly, the delay should not be condoned.

5. After considering the facts and circumstances for the delay occurred in the present matter, we find that the notices were not served on assessee's preferred email ID which was mentioned in Form-35. Further, since there was no fact on record showing that there was any deliberate or intentional reason for the assessee in delaying the filing of appeal, we therefore, deem it apt to condone the delay in present matter.

6. The brief facts of the case are that the assessment of assessee was completed under section 143(3) r.w.s. 147 on 26.12.2018 for the AY 2014-15 making addition of Rs. 23,71,500/- on account of bogus purchases from M/s Man Diamonds. The assessee challenged the aforesaid addition before the ld. CIT(A) however the assessee remained non-compliant before the ld. CIT(A) for the reasons clarified in petition of condonation of delay, discussed supra. The appeal of assessee has been dismissed by the ld. CIT(A) on account of non-prosecution without any adjudication on merits.

7. Since there was no adjudication by Id. CIT(A) in the appellate proceedings on merits of the case, based on facts and material available on record, which was obligatory on the FAA in terms of decision of Hon'ble Mumbai High Court in the case of ***CIT vs. Premkumar Arjundas Luthra (HUF)- [2016] 69 taxmann.com 407 (Bombay)***, wherein the relevant observations are as under:

*"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 AO to make further inquiry and report the result of the same to him as found in Sec. 250 of the Act. Further, Sec. 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. Sec. 251(1)(a) and (h) 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-s. (2) of [s. 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 [s. 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 w.e.f. 1st June, 2001 the power of the CIT(A) to set aside the order of the AO and restore it to the AO for passing a fresh order stands withdrawn. Therefore,*

*it would be noticed that the powers of the CIT(A) are co-terminus with that of the AO i.e. he can do all that A.O could do. Therefore, just as it is not open to the AO 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 [s. 251\(1\)\(a\)](#) and (b) and Explanation to Sec. 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.”*

8. In view of aforesaid observations, respectfully following the decision of Hon’ble Mumbai High Court, *de hors* any adjudication by the Id. CIT(A) on merits of the case, whereas the dismissal was *in limine*, the matter deserves to be restored back to the file of Id. CIT(A), with one more opportunity to the assessee to represent its case.

9. Needless to say, the assessee shall be provided with reasonable opportunity of being heard. The assessee is also directed to comply with the notices issued under section 250 in the set aside proceedings, without any fail, else the Id. CIT(A) would be at liberty to decide the issue in accordance with the mandate of law.

10. In result, appeal of assessee is **allowed for statistical purposes**, in terms of our observations.

*Order pronounced in the open court on 12-01-2026.*

*Sd/-*  
**(PAWAN SINGH)**  
**Judicial Member**  
Mumbai, Dated : 12-01-2026.  
*\*SK, Sr. PS*

*Sd/-*  
**(ARUN KHODPIA)**  
**Accountant Member**

**Copy of the Order forwarded to :**

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

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**