

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM

ITA No.4889/Mum/2014
(Assessment Year: 2008-09)

Mr. Manoj R. Maheshwari, 318/319, Tardeo AC Market, Tardeo Road, Mumbai – 400 034	Vs.	Income Tax Officer, 16(1)(4), Matru Mandir, 2 nd Floor, Mumbai – 400 007
PAN:ACAPM7018E		
(Appellant)	:	(Respondent)

Assessee by	:	Shri Bhsarat Kumar, AR
Respondent by	:	Shri Layaqat Ali Aafaqui, Sr. AR

Date of Hearing	:	22.12.2025
Date of Pronouncement	:	30.01.2026

ORDER

Per Kavitha Rajagopal, JM:

This appeal has been filed by the assessee, challenging the order of the Learned Commissioner of Income Tax (Appeals) [‘Ld. CIT(A)’ for short] passed u/s. 250 of the Income Tax Act, 1961 (‘the Act’), pertaining to the Assessment Year (‘A.Y.’ for short) 2008-09.

2. The assessee has raised the following grounds of appeal:

“1. The learned CIT (A) has erred in law and on facts in upholding the order passed by the Assessing Officer u/s. 143(3) of the Income-tax Act, 1961 which is illegal and bad in law.

2. The learned CIT (A) has erred in law and on facts in sustaining the assessment of Rs.63,96,049/- as short-term capital gain as per ITS data, as against Rs.3,63,656/- worked out by the appellant.



3. The learned CIT (A) has erred in law and on facts in confirming the disallowance of a sum of Rs.70,000/- out of fuel expenses of Rs.14,00,555/- incurred by the appellant for the purpose of running his car rental business.

4. The learned CIT (A) has erred in law and on facts in sustaining the disallowance of a sum of 89,791/- out of the interest expenditure of Rs.2,44,551/- incurred by the appellant during the relevant previous year.

5. The appellant craves leave to add to, amend, alter or delete all or any of the foregoing grounds of appeal.”

3. Brief facts of the case are that the assessee is an individual and had filed his return of income dated 15.03.2009 declaring total income at Rs.Nil and the same was processed u/s. 143(1) of the Act. The assessee's case was selected for scrutiny under CASS and notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The Learned Assessing Officer (“Ld. AO” for short) then passed the assessment order dated 31.12.2010 u/s 143(3) of the Act determining the total income at Rs.69,85,430/- after making various additions/disallowances.

4. Aggrieved, the assessee was in appeal before the first appellate authority challenging the order of Ld. CIT(A) and the Ld. CIT(A) upheld the additions made by the Ld. AO on the ground that the assessee has failed to substantiate his claim by cogent documentary evidences.

5. Aggrieved, the assessee is in appeal before us, challenging the order of the Ld. CIT(A).

6. The Learned Authorized Representative (“Ld. AR” for short) for the assessee submitted that the assessee made a statement at the bar that the assessee undertakes to not

press the grounds of appeal except ground No.2 raised by the assessee. The Ld. AR further submitted that the assessee intends to file additional documentary evidences to substantiate the claim of the assessee and prayed that the matter be remanded back to the Ld. AO for *denovo* adjudication on the said issue.

7. The Learned Departmental Representative (“Ld. D.R.” for short) vehemently opposed to set aside the issue back to the Ld. AO for the reason that this is the second round of litigation where the Tribunal had dismissed the appeal of the assessee for non-prosecution and was subsequently recalled. The Ld. DR contended that the assessee has been non-compliant before the lower authorities as well as before the Tribunal in the earlier occasions and relied on the order of the lower authorities.

8. We have heard the rival submissions and perused the materials available on record. It is observed that this is the second round of litigation where in the earlier occasion the Tribunal has dismissed the appeal of the assessee for want of prosecution and had recalled the same on the miscellaneous application filed by the assessee. Though the assessee has raised several grounds, the Ld. AR restricted to adjudicate only ground No.2 on addition/disallowance towards Short Term Capital Gain (“STCG” for short) amounting to Rs.63,96,049/- made by the Ld. AO and upheld by the Ld. CIT(A). In order to extend the assessee with one more opportunity, we remand this issue back to the file of the Ld. AO with a direction to admit the additional evidences proposed to be filed by the assessee and to adjudicate the said issue on the merits and in accordance with law, by adhering to the principles of natural justice and in the interest of justice dispensation. The assessee is



directed to strictly comply with the proceedings before the Ld. AO without any undue delay from his side.

9. In the result, ground No.2 raised by the assessee is hereby remanded back to the Ld. AO for *denovo* adjudication and the other grounds of appeal raised by the assessee are hereby dismissed.

10. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 30.01.2026

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Mumbai; Dated: 30.01.2026

* Kishore, Sr. P.S.

Copy of the Order forwarded to:

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

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai