

**आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**

**INDORE BENCH, INDORE**

**BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARESH M JOSHI, JUDICIAL MEMBER**

ITA No.576 /Ind/2025

(AY: 2012-13)

T LOGIKS AG-273 Alankar, Scheme No. 74 Vijay Nagar, Indore <b>(PAN: AACFT9876B)</b>	<b>बनाम/</b> Vs.	Income Tax Officer 3(1), Indore
(Appellant)		(Respondent)
Assessee by	Shri S.S.Solanki, CA	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	28.01.2026	
Date of Pronouncement	06.02.2026	

**आदेश / O R D E R**

**Per Paresh M Joshi, J.M.:**

This is an Appeal filed by the Assessee under section 253 of the income tax Act 1961,[ herein after referred to as the Act for the sake of brevity] before this Tribunal as & by way of second appeal. The Assessee is aggrieved by the order bearing Number:-ITBA/NFAC/S/250/2023-24/1054276234(1) dated 11.07.2023 passed by the Ld. CIT(A) u/s 250 of the Act,

which is herein after referred to as the "**Impugned order**". The relevant assessment year is 2012-13 and the corresponding previous year period is from 01.04.2011 to 31.03.2012.

2.

**Factual Matrix**

2.1 That as and by way of an "**Assessment order**" made u/s **144 r.w.s. 254 of the Act**, the total income of the assessee was computed & **assessed at Rs. 2,78,42,370/-**. The income declared as per ROI was Rs. 28,82,060/-. The additions of Rs.46,23,685/- was made towards unsecured loan, of Rs. 44,70,967/- for sundry creditors, of Rs. 26,54,750/- for other liabilities, of Rs. 26,69,795/- for interest claimed; of Rs. 97,05,439/- for credits in capital, of Rs. 500000/- for generator charges[+ Rs. 3,35,676/- addition already made on account of "**Unaccounted Contract receipt**" as per order u/s 144 r.w.s 147 of the Act dt. 15.12.2017] . The aforesaid Assessment Order is dated 29.11.2019 which is herein after referred to as the "**Impugned Assessment Order**".

2.2 That the assessee being Aggrieved by the aforesaid **“Impugned Assessment Order”** prefers the first appeal u/s **246A** of the Act before the Ld. CIT(A) who by the **“Impugned Order”** has dismissed the 1<sup>st</sup> appeal of the Assessee on the grounds & reasons stated therein. The core grounds & reasons for the dismissal of the 1<sup>st</sup> appeal are as under:-

*“3. Decision on Grounds of Appeal:*

*First Hearing Notice u/s 250 of the IT Act was issued to the assessee on 07-03-2020 to furnish the details on or before 11-03-2020. The notice was served on 07-03-2020 at email provided by the assessee [shailendra.j30@gmail.com](mailto:shailendra.j30@gmail.com) and was not complied with by the assessee.*

*Second Hearing Notice u/s 250 of the IT Act was issued to the assessee on 19-01-2021 to furnish the details on or before 25-01-2021. The notice was served on 23-01-2021 at email provided by the assessee [shailendra.j30@gmail.com](mailto:shailendra.j30@gmail.com) and was not complied with by the assessee.*

*Third Hearing Notice u/s 250 of the IT Act was issued to the assessee on 17-11-2021 to furnish the details on or before 24-11-2021. The notice was served on 17-11-2021 at email provided by the assessee [shailendra.j30@gmail.com](mailto:shailendra.j30@gmail.com) & [shailendrasolanki123@gmail.com](mailto:shailendrasolanki123@gmail.com) and was not complied with by the assessee.*

*Fourth Hearing Notice u/s 250 of the IT Act was issued to the assessee on 19-03-2022 to furnish the details on or before 28-03-2022. The notice was served*

on 19-03-2022 at email provided by the assessee [shailendra.j30@gmail.com](mailto:shailendra.j30@gmail.com), [kkcoind@gmail.com](mailto:kkcoind@gmail.com) & [shailendrasolanki123@gmail.com](mailto:shailendrasolanki123@gmail.com) and was not complied with by the assessee.

Fifth Hearing Notice u/s 250 of the IT Act was issued to the assessee on 30-06-2023 to furnish the details on or before 07-07-2023. The notice was served on 30-06-2023 at email provided by the assessee [shailendra.j30@gmail.com](mailto:shailendra.j30@gmail.com), [kkcoind@gmail.com](mailto:kkcoind@gmail.com) & [krampco@gmail.com](mailto:krampco@gmail.com) and was not complied with by the assessee.

It is quite manifest from the above that ample opportunities were conferred on the appellant in the course of Appellate proceedings. However, the Appellant chose not to pursue the matter. The Hon'ble Bombay High Court in *M/s Chemipol vs. Union of India & Ors.*, in Central Excise Appeal No. 62 of 2009, vide judgement dated 17th September 2009 while considering the judgments of Hon'ble Supreme Court in *CIT vs. S. Cheniappa Mudaliar*, AIR 1969 SC 1068, *Sunderlal Mannalal vs. Nandramdas Dwarkadas*, AIR 1958, and other judgments observed as follows:

"We cannot altogether lost sight of the Rule that every court or tribunal has an inherent power to dismiss a proceeding for non-prosecution when the petition/Appellant before it does not wish to prosecute the proceedings. In such a situation, unless the statute clearly requires the court or tribunal to hear the Appeal/proceeding and decide it on merits, it can dismiss the Appeal/proceeding for."

The Delhi Bench of this tribunal in *CIT vs. M/s Multiplan India Pvt. Ltd* (1991) 38 ITD 320 (Del), has held that in a similar circumstances, the Appeal may be dismissed as unadmitted.

*In fact, the Hon'ble Apex Court in CIT vs. B. N. Bhattachargee & ANR (1979) 10 CTR 0354: (1979) 118 ITR 0461 has held that the words "preferred an appeal" in section 245 M means more than formally filling it but effectively pursuing it.*

*In view of the above judicial pronouncements coupled with the fact that the appellant has not pursued the Appeal, I am left with no option but to complete the appeal proceedings based on documentary evidences available on record.*

*Grounds 1 to 8: During the appeal proceedings, Grounds of appeal, Facts of the case, Assessment order dated 12.12.2019 are noted.*

*During the appeal proceedings, no documentary evidences have been submitted by the appellant to verify his claim in-spite of multiple opportunities being provided by this office as stated above. As evidenced from the Assessment Order, no explanation was produced during the assessment proceedings. Therefore, the appeal is decided on the basis of verified documentary evidences available on record.*

*AO has passed ex parte order due to non-attendance of assessment proceedings which is justified and is within the purview of Income Tax Act. On perusal of assessment order, it is noted that the assessee is habitual non-compliant. Further, the merits of the case known to assessee may differ with the AO's Best Judgement Assessment but the onus to reconcile the difference lies with the assessee. In the instant case, the appellant neither attended the assessment proceedings nor appeal proceedings, hence, I do not have any documentary evidences on record to provide relief to the appellant sought merely through it's grounds of appeal.*

*In view of the above, order of AO is upheld and the grounds are noted as dismissed.*

***In the result, the appeal is noted as dismissed".***

2.3 The assessee being aggrieved by the **"Impugned Order"** has preferred the instant second appeal before this Tribunal & has raised the following grounds of appeal in the Form No. 36 against the **"Impugned Order"** which are as under:-

*"1. That the learned CIT(A) erred in maintaining addition made by the AO of Rs.46,23,685/- u/s 68. The addition so made being illegal and wrong, the same may very kindly be deleted.*

*2. That the learned CIT(A) erred in maintaining addition made by the AO of Rs. 44,70,967/- u/s 68. The addition so made being illegal and wrong, the same may very kindly be deleted.*

*3. That the learned CIT(A) erred in maintaining addition made by 3 the AO of Rs.26,54,750/- u/s 68. The addition so made being illegal and wrong, the same may very kindly be deleted.*

*4. That the learned CIT(A) erred in maintaining addition made by the AO of Rs.26,69,795/- as interest on account of unexplained loan and advances. The addition so made being illegal and wrong, the same may very kindly be deleted.*

*5. That the learned CIT(A) erred in maintaining addition made by the AO of Rs.97,05,439/- u/s 68. The addition so made being illegal and wrong, the same may very kindly be deleted.*

*6. That the learned CIT(A) erred in maintaining addition made by the AO of Rs.5,00,000/- disallowance of expenses claimed in profit and loss account. The addition so made being illegal and wrong, the same may very kindly be deleted.*

*7. That the learned CIT(A) erred in maintaining addition made by the AO of Rs.3,35,676/- . The addition so made being illegal and wrong, the same may very kindly be deleted."*

3. **Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 28.01.2026 when the Ld. AR for & on behalf of the Assessee appeared before this Tribunal & inter alia contended that the **"Impugned Order"** is bad in law, illegal & not Proper. It is in the violation of the principles of natural justice. It therefore deserves to be set aside. It was next contended that the registry has pointed out that the delay of 643 days in filing the instant second appeal. It was submitted that the **"Impugned Order"** is dated 11.07.2023 & the instant appeal ought to have been filed on or before 11.09.2023, however the instant appeal was filed before this Tribunal on 04.07.2025. An affidavit dated 16.07.2025 is placed on the record of this Tribunal. With regards to the delay, it was submitted basis said Affidavit as follows-

*" 5. That, the reasons for delays were:*

- 1. That I have been suffering from Mysthanea Gravis disease since May 2022 till now. This is a neurological disorder and is of the nature of auto immune Disease.*

*Since then I am under treatment of Dr. Abhay Bhagwat, an Imminent Neurologist of Indore, under supervision of Dr. Prakash Chitalkar, a famous cancer specialist of Indore in Apollo Hospitals Indore. The relevant papers of my disease are in two files attached herewith. I am still under medicine and not able to properly handle my income tax cases.*

II) *That, this firm T Logiks was a partnership firm of four persons (a) me, (b) my wife Nayana, (C) my Son Tanmay and (d) one Smt Saasha jain. My wife died in Dec. 2021 having a prolong disease sentimentally affecting me a lot. My son, the other partner Mr. Tanmay Jain is also not of perfectly sound mind and has been suffering from Cerebral Palsy, a neurological disorder and is unable to look after the affairs of the firm. Due to the above reasons the firm has not been doing its business for a long time and is in closed situation and, therefore, there has been a delay of 664 days in filing the appeal and consequently appeal could not be filed timely."*

3.2 Per contra, the Ld. DR appearing for & on behalf of the Revenue submitted that the delay be condoned as Medical grounds/records show that the assessee's firm's partner was mentally incapacitated due to factors stated in the Affidavit during hearing too. In ultimate analysis the Ld. DR left the issue of delay on the wisdom of Bench.

3.3 This Tribunal after hearing both the Ld. AR & Ld.DR condone the delay as sufficient cause is shown. The appeal is admitted & taken up for hearing.

3.4 The Ld. AR has placed of the record of this Tribunal a brief "Synopsis" from pages 1 to 11 & a paper book containing pages 1 to 131. Compilation of case laws from pages 1 to 71 too are placed on the record of this Tribunal in support. The Ld. AR submitted that the assessee firm is a partnership firm. Apart from the assessee, wife, son & on Smt. Saasha Jain were partners . The assessee's wife died in December 2021. The son is suffering from Cerebral Palsy, a neurological disorder. Due to these factors, the assessee's firm is not doing any business since long time & is in closed situation. In the

Form No. 35, the assessee's email was *shailendrasolanki123@gmail.com* at para 17 the "**Impugned Order**" was however communicated to the assessee & not to his counsel & even the final notice of opportunity was not communicated to the assessee's counsel. The assessee firm being closed & the assessee's main partner being bed ridden as stated earlier & in Affidavit too, the effective participation on the part of the assessee was not possible. It was finally prayed that the "**Impugned Order**" be set aside & the matter be remanded back to the file of the Ld.AO for de novo adjudication.

3.5 Per contra, the Ld.DR for the revenue has not contested the submission made by the Ld. AR & has stated fairly basis contentions of the Ld. AR & contents of the Affidavit dt. 16.07.2025 of the assessee's partner that plausible explanation are given basis Medical grounds & records. The Ld. DR stated that this Tribunal in its wisdom may take appropriate call in this regard.

4. **Observations Findings & conclusions**

4.1 We have to decide the legality, validity and propriety of the **“impugned order”** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us, are of the considered view that the **“Impugned Assessment Order”** is u/s 144 of the Act. The matter has not been adjudicated and adjudged basis merits. Even the **“Impugned Order”** is not on merits. This Tribunal desires the meritorious disposal of both the **“Impugned Assessment Order”** as well as the **“Impugned Order”**. In the result we are of the considered opinion that the **“Impugned Order”** should be set aside & the matter should be remanded back to the file of Ld. AO for passing a fresh order on the merits of the case. It is the expectation of this Tribunal that the assessee would give his full & complete details, latest email ID of his firm, including the Counsel's. The assessee to

attend the hearings as & when fixed. The assessee to file reply, submissions, documents, materials, evidences etc. & such other details as sought by the Ld. AO promptly without delay. The assessee is directed to prepare his/it's submissions well in advance so that time is not wasted in the interim process. The A.Y. is 2012-13 and hence it is expected that now both the assessee & the revenue would cooperate with each other in sportsmanship manner so that the income of the assessee is adjudged & adjudicated on merits. The assessee is to note that exchequer charges taxes according to law for **National Development**.

4.4 In view of the above, we set aside the "**Impugned order**" and remand the case back to the file of the Ld. AO on denovo basis, who shall now pass a speaking & well reasoned within six months from the date of receipt of this order.

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**Order**

5.1 In the result, the impugned order is set aside as & by way of remand back to the file of the Ld. AO with directions as aforesaid.

5.2. In result, appeal of Assessee is allowed for statistical purpose.

**Pronounced in open court on 06.02.2026.**

Sd/-

**(BHAGIRATH MAL BIYANI)**  
**ACCOUNTANT MEMBER**

Sd/-

**(PARESH M JOSHI)**  
**JUDICIAL MEMBER**

**Indore**

Dated : 06 /02 /2026

Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File

By order

Senior Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore