

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA No.4826/M/2025
Assessment Year: 2015-16**

Lynton Mario Dsouza, 118 Lynton APT, Gamdevi Road Poisar Kandivali West, Mumbai, MUMBAI-400067. PAN: ADRPD 6636 R	Vs.	National Faceless Assessment Centre, 245-A, North Block, New Delhi-110001.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Tejas Sodha (Virtually Appear)
Revenue by : Shri Surendra Mohan, SR. D.R.

Date of Hearing : 04.02.2026
Date of Pronouncement : 12.02.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 30.05.2025, impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2015-16.

2. In the instant case, the Assessing Officer (A.O) vide re-assessment order dated 13.12.2023 u/s 147 read with section 144B Act has made the additions of Rs.70,71,816/- and Rs.18,21,050/- respectively on account disallowance of long

term capital gain and the amount deposited in the bank account of the assessee u/s 69A of the Act.

3. The assessee being aggrieved against the aforesaid disallowances/additions, challenged the same by filing first appeal before the Ld. Commissioner, however despite issuing various notices and except seeking the adjournment on two occasions, eventually made no compliance and/or filed no submissions or documents ; therefore the learned Commissioner in the constrained circumstances decided the appeal filed by the assessee, as ex-parte and ultimately affirmed the aforesaid additions/disallowances by dismissing appeal of the assessee.

4. Thus, the assessee being aggrieved has preferred instant appeal.

5. Heard the parties and perused the material available in record. On being asked about non-compliance by the assessee, the assessee simply stated that notices issued to the assessee, somehow went in junk/ spam folder of the assessee, which resulted into no-compliance. The assessee on being asked also failed to file the relevant documents in respect of aforesaid submissions/contentions and therefore we are inclined not to entertain the aforesaid claim of the assessee.

We further observe that the Assessment order is also more or less is ex-parte, as the same has been passed u/s 147 read with section 144B of the Act due to non-compliance by the Assessee and therefore the assessee does not deserve any

leniency as the learned DR specifically also refuted the aforesaid claim of the Assessee and alternatively prayed submitted that if the Hon'ble Court ultimately comes to the finding that case is to be remanded then the same may be done, while imposing heavy cost on the Assessee.

However, considering other aspect of the case as it is a fact that issues involved also remained to be adjudicated in its right perspective and proper manner, specifically in the absence of relevant submissions/documents, which the assessee now undertakes to file with due diligence and without any default and praying for mercy. Thus, considering the peculiar facts and circumstances in totally for just and proper decision of the case and substantial justice, we are of the considered view that matter requires to be adjudicated afresh, and therefore case is accordingly remanded to the file of the learned Commissioner for decision afresh, subject to deposit of Rs. 11,000/- in the Revenue Department under "other heads", within 15 days of this order.

6. The assessee is also directed to file the relevant submissions and documents before the learned Commissioner and comply with the notices to be issued by the learned Commissioner. We clarify that in case of subsequent default, the assessee shall not be entitled for any leniency.

7. In the result, assessee's appeal is allowed for statistical purposes.

Order pronounced in the open court on 12.02.2026.

**Sd/-
(JAGADISH)
ACCOUNTANT MEMBER**

M. Ranganath Vithal
Sr. Private Secretary.

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.