

आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।

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

BEFORE SMT. BEENA PILLAI, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No. 7665/Mum/2025
(Assessment Year: 2018-19)

Siroya FM Constructions Pvt. Ltd., 808, Raheja Chambers, Nariman Point, Mumbai-400021. AAKCS0396L	Vs.	ITO, Ward-13(2)(1), Room No. 147, Aayakar Bhavan, M.K. Road, Mumbai-400020.
Assessee -अपीलार्थी / Appellant	:	Revenue - प्रत्यर्थी / Respondent

Assessee by : Shri Tajeas Chandarana, CA

Revenue by : Dr. Raghvendra P. Chambolkar,
Sr. DR

Date of Hearing : 10.02.2026

Date of Pronouncement : 11.02.2026

ORDER

Per Arun Khodpia, AM:

This appeal is preferred by the assessee to challenge the order of Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [in short “Ld. CIT(A)”], dated 25.09.2025, for the Assessment Year (AY) 2018-19, which in turn arises from the order under section 147 r.w.s. 144 of the Income Tax Act, 1961 (the Act) dated 19.03.2022. The grounds of appeal raised by the assessee are as under:

“1. The learned CIT(A) has erred in law and on facts in passing the ex-parte order and thereby confirming the order passed u/s 147 r.w.s.144 of the Act by the learned Assessing Officer. The appellant has not received proper opportunity of hearing as the notices mentioned in the order of CIT(A) is not served to the appellant.

2. The appellant prays that since, the order passed by the learned assessing officer is also an Ex-Party order, the matter may be remanded back to the assessing officer for fresh assessment

Without prejudice to ground No.1 and 2 the appellant further submits as under.

3. On the facts and circumstances of the case and in law, the learned Assessing Officer ("AO") has erred in passing order u/s 148(d) and issuing notice u/s 148 as same is issued without jurisdiction. The appellant prays that such order / notice which is passed / issued without jurisdiction should be treated as bad in law and may be cancelled and resultant re-assessment order passed should be quashed.

4. On the facts & Circumstances of the case, the learned assessing officer has erred in passing the re-assessment order without serving various notices including show cause notices. The appellant prays that order passed by the learned assessing officer is without principle of natural justice and hence, same may be cancelled.

5. The learned CIT(A) has erred in law and on facts by confirming the addition of INR 6,96,62,292 made by the learned AO on account of sale of various immovable properties.

6. The learned CIT(A) and the Ld. Assessing Officer has erred in ignoring the fact that the appellant is into the business of real estate and following project completion method for recognizing revenue. The appellant prays that during the year under consideration, the project is still under construction and hence, no income should be determined for the year under consideration.

7. The learned CIT(A) has erred in law and on facts by confirming the addition of interest income of INR 3,83,101/- made by the learned AO.”

2. At the outset, it is submitted by the Id. AR representing the assessee that the impugned appellate order passed by the Id. CIT(A) was an ex-parte order, wherein the assessee was unable to respond because of non-receipt of notices issued under section 250 of the Act on various dates. To support such contention that the assessee has neither received nor been served with any notices /letters/communication from the Id. CIT(A) for AY 2018-19, an affidavit has been furnished duly signed by the Director of the assessee company. It is further submitted that the matter may be remanded back to the file of Id. CIT(A) for fresh adjudication wherein the assessee admits to comply fully, without any fail. For the purpose of communication also it is submitted by the Id. AR that such communications may be made on the email ID of assessee i.e. shubhame@gmail.com and not on the email ID mentioned in Form-35 i.e. sdsiroya@gmail.com

3. Per contra, the Id. Sr. DR representing the revenue submitted that all the notices were duly send on the email ID of the assessee, which was preferred in Form-35 filed by the assessee before the Id. CIT(A), therefore non-representation of the assessee before the Id. CIT(A), which was the main reason for dismissal of its appeal remains unsubstantiated. Under such circumstances, the order of Id. CIT(A) deserves to be sustained.

4. We have considered the rival submissions and perused the material available on record. Admittedly, in present case, the assessee remained non-compliant before the Id. CIT(A) on all the occasions, when the notices under section 250 of the Act were issued for compliance. Further, there was no decision by the Id. CIT(A) on merits of the case, besides *in limine* dismissal of the appeal, whereas according to settled principles there should be some adjudication on merits by the Ld. CIT(A) taking into consideration the material available on records. We, therefore without dealing with the merits of the case, find it appropriate to restore this matter back to the file of Id. CIT(A), providing one final opportunity to the assessee in the interest of justice, on request of Id. AR on behalf of the assessee, under admission that the assessee will remain pro-actively compliant in the set-aside appellate proceedings.

5. In view of such facts, circumstances and observations, the matter is set-aside to the file of Id. CIT(A) to decide the same afresh after providing reasonable opportunity of being heard to the assessee.

6. In result, the appeal of assessee stands allowed for statistical purposes.

Order pronounced in the open court on 11-02-2026.

Sd/-
(BEENA PILLAI)
Judicial Member

Mumbai, Dated : 11-02-2026.

*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